

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, dated September 8, 1997, as amended, hereby consents to that certain Rental Agreement (Sublease), dated May 26, 2006, attached hereto, between the above LESSEE (SUBLESSOR) and

BALBOA PARK CULTURAL PARTNERSHIP

(SUBLESSEE). The Sublease shall be subordinate to the Master Lease in all respects. CITY is merely approving SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions:

1. ASSIGNMENT AND SUBLEASING: SUBLESSEE shall not assign the Sublease or sublet the subleased premises or any part of the subleased premises without the prior written consent of CITY. An assignment by operation of law shall automatically terminate the Sublease.
2. HOLD HARMLESS: SUBLESSEE shall assume the defense of, indemnify, and hold harmless CITY, its elected officials, officers, employees, agents, and representatives from all claims, expenses, and liability of every nature, directly or indirectly arising from or alleged to have arisen from the operations conducted on the subleased premises, the condition of the subleased premises, or from any act or omission of SUBLESSEE, its agents and invitees; provided, however, SUBLESSEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, employees, agents, and representatives.
3. INSURANCE: SUBLESSEE shall be insured by an insurance carrier acceptable to CITY against loss from public liability arising from the use or condition of or operation conducted on the subleased premises. Minimum coverage shall be two million dollars (\$2,000,000) combined single limit liability per occurrence. A copy of the policy of insurance shall be filed with CITY and shall, by separate endorsement, name "The City of San Diego, its elected officials, officers, employees, agents, and representatives" as additional insureds. The policy shall specify that the policy may not be terminated, altered, or canceled without thirty (30) days prior written notice to CITY by the insurance company.

4. LEGAL PROCEEDINGS: Should it become necessary for CITY to commence legal proceedings to collect rent, recover possession, or enforce any other provision of this consent, the Master Lease, or the Sublease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.
5. ASSUMPTION: SUBLESSEE agrees to assume the rights and obligations of the Master Lease and to keep and perform all covenants, conditions, and provisions of the Master Lease which are applicable to the rights acquired.

THE CITY OF SAN DIEGO, a municipal corporation

Date 2/28/07 By David A. Sandoval
David A. Sandoval, Deputy Director
Real Estate Assets Department

HOUSE OF HOSPITALITY ASSOCIATION, a California nonprofit corporation

Date 2-15-07 By David Kinney
David Kinney, Executive Director

BALBOA PARK CULTURAL PARTNERSHIP, a California nonprofit corporation

Date 2/15/07 By David Lang
David Lang, Executive Director

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. AGUIRRE, City Attorney

Date 4/9/07 By [Signature]
Deputy City Attorney

PC/cj

12/29/06

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REAL ESTATE ASSETS DEPT.

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of May 26, 2006, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and BALBOA PARK CULTURAL PARTNERSHP ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite No. 11 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated as of September 8, 1997, Document No. RR-289141, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). A copy of the master lease is attached as Exhibit "B". This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for 60 months, commencing on July 1, 2006, ("Commencement Date"), and terminating on June 30, 2011, ("Termination Date"), unless sooner terminated as hereinafter provided. TENANT may, at TENANT's option, extend the initial term of this Lease for five (5) periods of one (1) year, (each such period referred to as an "Extension Term"), subject to all the provisions of this Lease, except for any further extensions of the Term. The Extension Term shall commence at the expiration of the Initial Term, or the previous Extension Term, as the case may be, and shall terminate on the last day prior to the first anniversary of the date of commencement of the Extension Term, unless sooner terminated as provided herein. At least ninety (90) days before the last day of the Initial Term or the current Extension Term, as the case may be, TENANT shall give LANDLORD written notice irrevocably exercising the option.

4. RENT

TENANT shall pay to LANDLORD the sum of \$0.95 per foot per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing. The monthly total shall be \$471.20.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. Notwithstanding the foregoing, however, in no event shall the increase to monthly rent provided above in this section 4 be greater than five percent (5%) of the rent payable for the month immediately preceding the applicable adjustment date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S.

Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: offices, storage, art education studios, classes and related uses for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, and regulations relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in violation of any law or regulation in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance due to TENANT'S operation on premises, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities to the extent resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies. Notwithstanding the foregoing, however, TENANT's obligation to indemnify LANDLORD and the city shall not apply to any claim to the extent arising from or in connection with any negligent or intentional conduct of the indemnified party or of any agent, contractor, employee or invitee of such party.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

LANDLORD warrants to TENANT that as of the Commencement Date the building has been constructed in full compliance with all laws, regulations and ordinances, including, without limitation, laws pertaining to disabled access and laws pertaining to hazardous substances (as defined in Section 5) in order to make the Premises and the building suitable for public use and occupancy. In addition, LANDLORD warrants to TENANT that as of the Commencement Date, the Premises do not contain any hazardous substances. LANDLORD shall be fully responsible for making all alterations and repairs to the building, at its cost and expense, required in order to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., as amended, or required to remove any hazardous substances discovered to have existed in the Premises prior to the Commencement Date. Subject to the foregoing warranty, TENANT hereby accepts the Premises in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall have the right to construct on and within the Premises all of the improvements, modifications and additions depicted on the attached Exhibit "C" ("Tenant Improvements") without the obligation to provide a performance bond as provided below. The Tenant Improvements shall include a demising wall separating the Premises from the contiguous suite. TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions (but not any portion of the Tenant Improvements) at the expiration of the term of this Agreement, and to restore the Premises to condition existing after construction of the Tenant Improvements by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

LANDLORD shall be obligated to maintain during the entire term of this Agreement all of the insurance coverage required of lessee in the master lease.

TENANT and LANDLORD each release each other and waive any and all rights of recovery against the other, and against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured or is required to be insured by this Agreement. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, to the extent arising from, or alleged to have arisen from, the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees. LANDLORD shall defend, indemnify and hold TENANT harmless from and against any and all claims for damages, expenses and liability to the extent arising from, or alleged to have arisen from, any act or omission of LANDLORD, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for five (5) business days after written notice has been given to TENANT.

(ii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iii) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair

and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at it's option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;
- (iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and
- (iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that

requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises (except the Tenant Improvements), prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.

1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : Balboa Park Cultural Partnersip
1549 El Prado
San Diego, CA 92101

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times after twenty-four (24) hours notice to TENANT for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation or arbitration regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

- (a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- (b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.
- (c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality in effect as of the date of this Agreement. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required provided that TENANT is given a copy of any such rules and/or regulations prior to the effective date thereof.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David Keirney

Its: Executive Director

TENANT:

By: David Long

Its: Executive Director

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE), and filed in the Office of the City Clerk as Document No. RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

SCHOOL IN THE PARK, SAN DIEGO STATE UNIVERSITY FOUNDATION

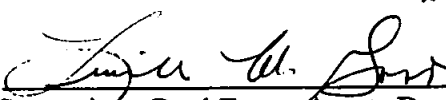
(SUBLESSEE) dated July 7, 2000, as amended by the First Amendment to Rental Agreement Dated July 17, 2001. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions:

SUBLESSEE shall use the Premises solely for the following Balboa Park-related activities and projects: offices, storage, and museum education studios and classes. The Premises shall be used for no other purpose without CITY'S prior written consent.

THE CITY OF SAN DIEGO

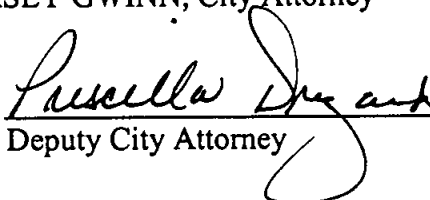
Date 8-8-01

By 
Supervisor, Real Estate Assets Department

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date 8/9/01

By 
Deputy City Attorney

CITY ATTORNEY

AUG 8 4 41 PM '01

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of July 7, 2000, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and SCHOOL IN THE PARK, SAN DIEGO STATE UNIVERSITY FOUNDATION ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite No. 16 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises"). 365 sq. ft.

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated as of September 8, 1997, Document No. RR-289141, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). A copy of the master lease is attached as Exhibit "B". This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for twelve (12) months, commencing on July 17, 2000, ("Commencement Date"), and terminating on July 16, 2001, ("Termination Date"), unless sooner terminated as hereinafter provided. TENANT may, at TENANT's option, extend the initial term of this Lease for five (5) periods of one (1) year, (each such period referred to as an "Extension Term"), subject to all the provisions of this Lease, except for any further extensions of the Term. The Extension Term shall commence at the expiration of the Initial Term, or the previous Extension Term, as the case may be, and shall terminate on the last day prior to the first anniversary of the date of commencement of the Extension Term, unless sooner terminated as provided herein. At least ninety (90) days before the last day of the Initial Term or the current Extension Term, as the case may be, TENANT shall give LANDLORD written notice irrevocably exercising the option.

4. RENT

TENANT shall pay to LANDLORD the sum of \$0.60 per foot per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing. The monthly total shall be \$219.00.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. Notwithstanding the foregoing, however, in no event shall the increase to monthly rent provided above in this section 4 be greater than five percent (5%) of the rent payable for the month immediately preceding the applicable adjustment date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) -

for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: offices, storage, art education studios, classes and related uses for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, and regulations relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in violation of any law or regulation in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance due to TENANT'S operation on premises, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities to the extent resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies. Notwithstanding the foregoing, however, TENANT's obligation to indemnify LANDLORD and the city shall not apply to any claim to the extent arising from or in connection with any negligent or intentional conduct of the indemnified party or of any agent, contractor, employee or invitee of such party.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

LANDLORD warrants to TENANT that as of the Commencement Date the building has been constructed in full compliance with all laws, regulations and ordinances, including, without limitation, laws pertaining to disabled access and laws pertaining to hazardous substances (as defined in Section 5) in order to make the Premises and the building suitable for public use and occupancy. In addition, LANDLORD warrants to TENANT that as of the Commencement Date, the Premises do not contain any hazardous substances. LANDLORD shall be fully responsible for making all alterations and repairs to the building, at its cost and expense, required in order to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., as amended, or required to remove any hazardous substances discovered to have existed in the Premises prior to the Commencement Date. Subject to the foregoing warranty, TENANT hereby accepts the Premises in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall have the right to construct on and within the Premises all of the improvements, modifications and additions depicted on the attached Exhibit "C" ("Tenant Improvements") without the obligation to provide a performance bond as provided below. The Tenant Improvements shall include a demising wall separating the Premises from the contiguous suite. TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions (but not any portion of the Tenant Improvements) at the expiration of the term of this Agreement, and to restore the Premises to condition existing after construction of the Tenant Improvements by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

LANDLORD shall be obligated to maintain during the entire term of this Agreement all of the insurance coverage required of lessee in the master lease.

TENANT and LANDLORD each release each other and waive any and all rights of recovery against the other, and against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured or is required to be insured by this Agreement. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, to the extent arising from, or alleged to have arisen from, the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees. LANDLORD shall defend, indemnify and hold TENANT harmless from and against any and all claims for damages, expenses and liability to the extent arising from, or alleged to have arisen from, any act or omission of LANDLORD, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for five (5) business days after written notice has been given to TENANT.

(ii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iii) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without

and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises (except the Tenant Improvements), prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.

1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : School in the Park
San Diego State University Foundation
5250 Campanile Drive
San Diego, CA 92182

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times after twenty-four (24) hours notice to TENANT for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD

may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation or arbitration regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

(a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

(b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.

(c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality in effect as of the date of this Agreement. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required provided that TENANT is given a copy of any such rules and/or regulations prior to the effective date thereof.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David King

Its: Executive Director

TENANT: SCHOOL IN THE PARK, SAN DIEGO STATE UNIVERSITY FOUNDATION

By: [Signature]

Its: DIRECTOR of FACILITIES MGT.

FIRST AMENDMENT TO RENTAL AGREEMENT

This First Amendment to Rental Agreement is executed by and between THE HOUSE OF HOSPITALITY ASSOCIATION ("LANDLORD") and SCHOOL IN THE PARK, SAN DIEGO STATE UNIVERSITY FOUNDATION ("TENANT").

The Parties entered into that certain rental agreement dated July 17, 2000.

LANDLORD and TENANT hereby agree:

1. The following paragraph is added:

Tenant will not expand their operations in the House of Hospitality. This includes, but is not limited to classrooms, meeting space and additional office space.

2. Nothing contained herein is intended to alter or amend any other covenant or condition of said rental agreement.
3. This amendment shall be effective upon the date of execution hereof by LANDLORD and TENANT.

Landlord: House of Hospitality Association

By: David Kenney

Its: Executive Director

Date: 7.17.01

Tenant: School in the Park, San Diego State University Foundation

* By: Christine M. Taylor

Its: _____

*
Date: 6/5/01

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE), and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

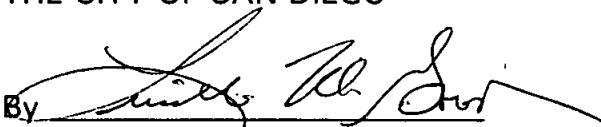
SAN DIEGO MUSEUM OF ART

(SUBLESSEE), dated January 5, 1999. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

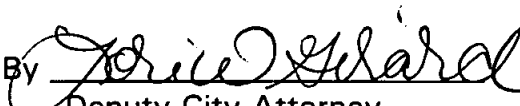
Date 1-23-99

By 
Supervisor, Real Estate
Assets Department

APPROVED AS TO FORM
AND LEGALITY

CASEY GWINN, City Attorney

Date 1-26-99

By 
Deputy City Attorney

PTC:csn

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of 5 January, 1999, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and the San Diego Museum Of Art, a California Nonprofit Corporation, ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite(s) No. B, 14, 15 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises"). The premises are depicted on the attached Exhibit "A".

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated as of September 8, 1997, Document No. RR-289141, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). A copy of the master lease is attached as Exhibit "B". This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for sixty (60) months, commencing on 1.15.99, ("Commencement Date"), and terminating on 1.14.04, unless sooner terminated as hereinafter provided.

4. RENT

TENANT shall pay to LANDLORD the sum of \$0.60 per foot per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing. \$2,503.65 per month.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement - ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. Notwithstanding the foregoing, however, in no event shall the increase to monthly rent provided above in this section 4 be greater than five percent (5%) of the rent payable for the month immediately preceding the applicable adjustment date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: offices, storage, art education studios, classes and related uses for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, and regulations relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in violation of any law or regulation in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities to the extent resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies. Notwithstanding the foregoing, however, TENANT's obligation to indemnify LANDLORD and the city shall not apply to any claim to the extent arising from or in connection with any negligent or intentional conduct of the indemnified party or of any agent, contractor, employee or invitee of such party.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political

activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

LANDLORD warrants to TENANT that as of the Commencement Date the building has been constructed in full compliance with all laws, regulations and ordinances, including, without limitation, laws pertaining to disabled access and laws pertaining to hazardous substances (as defined in Section 5) in order to make the Premises and the building suitable for public use and occupancy. In addition, LANDLORD warrants to TENANT that as of the Commencement Date, the Premises do not contain any hazardous substances. LANDLORD shall be fully responsible for making all alterations and repairs to the building, at its cost and expense, required in order to comply with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., as amended, or required to remove any hazardous substances discovered to have existed in the Premises prior to the Commencement Date. Subject to the foregoing warranty, TENANT hereby accepts the Premises in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall have the right to construct on and within the Premises all of the improvements, modifications and additions depicted on the attached Exhibit "C" ("Tenant Improvements") without the obligation to provide a performance bond as provided below. The Tenant Improvements shall include a demising wall separating the Premises from the contiguous suite. TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions (but not any portion of the Tenant Improvements) at the expiration of the term of this Agreement, and to restore the Premises to condition existing after construction of the Tenant Improvements by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by TENANT shall be completed in accordance with the plans approved by

LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

LANDLORD shall be obligated to maintain during the entire term of this Agreement all of the insurance coverage required of lessee in the master lease.

TENANT and LANDLORD each release each other and waive any and all rights of recovery against the other, and against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured or is required to be insured by this Agreement. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, to the extent arising from, or alleged to have arisen from, the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees. LANDLORD shall defend, indemnify and hold TENANT harmless from and against any and all claims for damages, expenses and liability to the extent arising from, or alleged to have arisen from, any act or omission of LANDLORD, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the

prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

- (i) Failure to pay rent when due, if the failure continues for three (3) business days after written notice has been given to TENANT.
- (ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).
- (iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.
- (iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement.

TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at its option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;
- (iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and
- (iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to

LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises (except the Tenant Improvements), prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.

1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : San Diego Museum of Art

1540 El Prado
San Diego, CA 92101
(619) 232-7931

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times after twenty-four (24) hours notice to TENANT for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation or arbitration regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

- (a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- (b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.
- (c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality in effect as of the date of this Agreement. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required provided that TENANT is given a copy of any such rules and/or regulations prior to the effective date thereof.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David Kinney

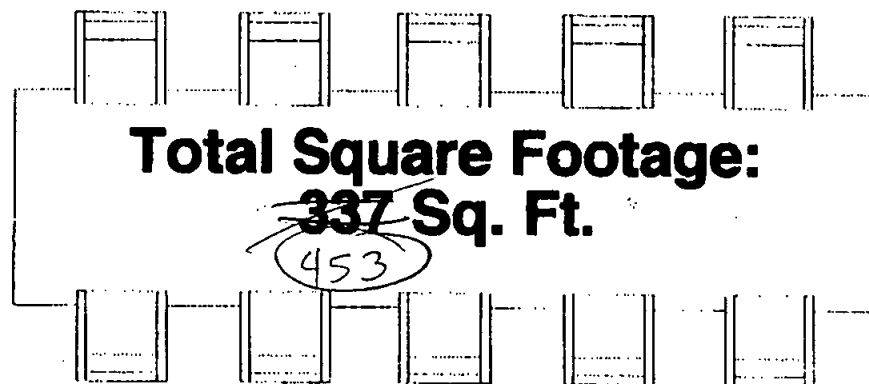
Its: General Manager

TENANT: SAN DIEGO MUSEUM OF ART

By: [Signature]

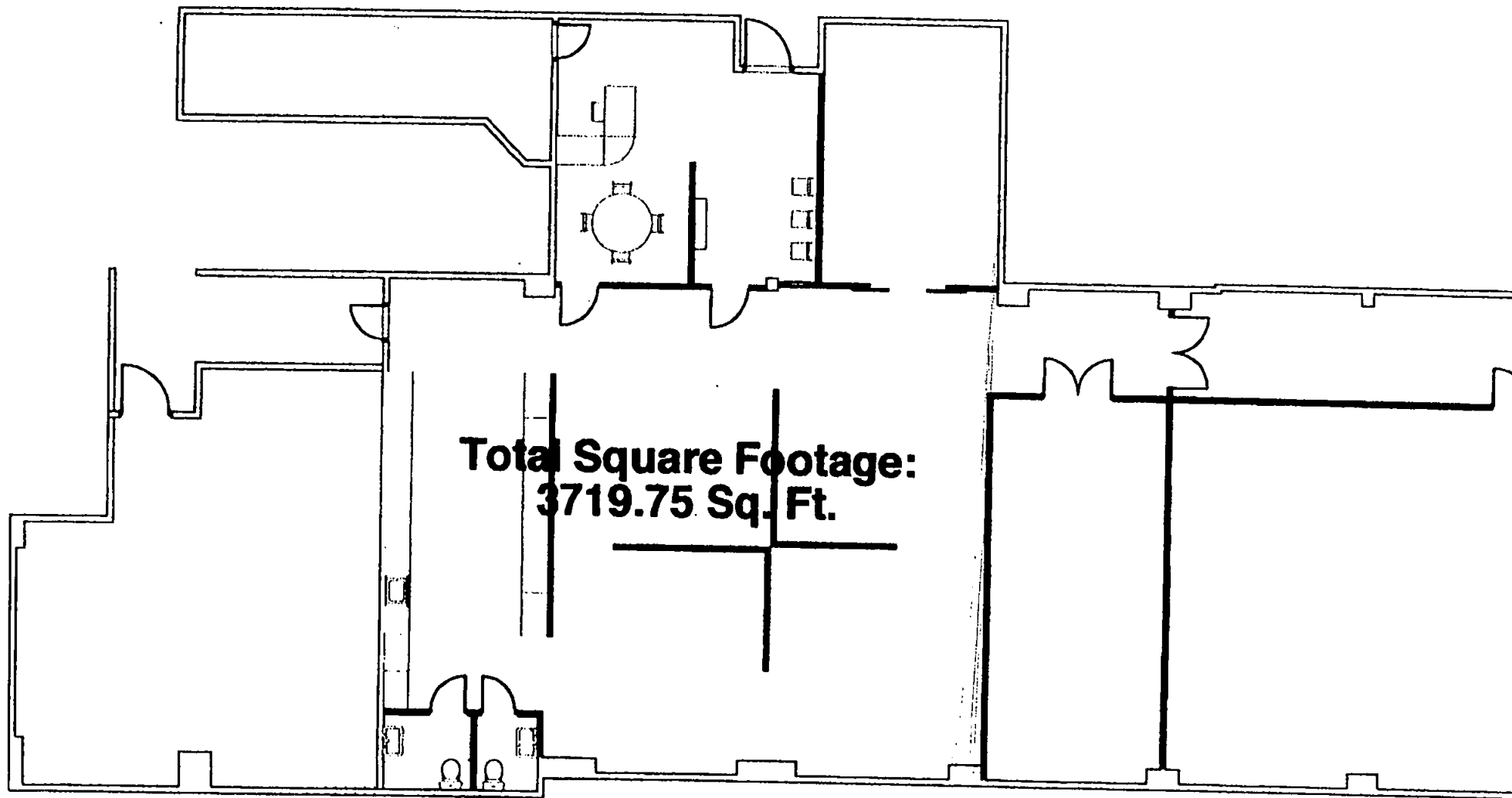
Its: Director

EXHIBIT C



Multi - Purpose Room Plan: Lecture

San Diego Museum Of Art



END

Proposed Classroom Floor Plan

San Diego Museum Of Art

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

MUSEUM OF PHOTOGRAPHIC ARTS

(SUBLESSEE) dated August 20, 1998. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

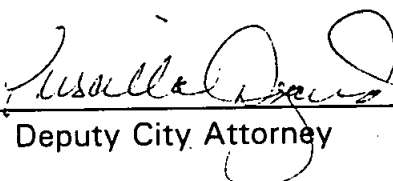
Date 11-18-98

By 
Supervisor, Real Estate Assets Department

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date 11/17/98

By 
Deputy City Attorney

RENTAL AGREEMENT

This agreement is made by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION (hereinafter "LANDLORD") and Museum of Photographic Arts (hereafter "TENANT").

1. LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property situated in the City of San Diego, County of San Diego, State of California, commonly known as Studio(s) No. 17 of the House of Hospitality, located in Balboa Park, San Diego, California (hereinafter the "Premises").

SUBORDINATION.

2. This agreement is a sublease of a portion of the premises covered by that certain Lease dated 9/8/97 between the City of San Diego (hereinafter "City"), as landlord, and LANDLORD, as tenant, (hereinafter "Master Lease Agreement"). This Agreement is subject and subordinate to the covenants and conditions of the Master Lease Agreement notwithstanding any provision hereof contrary to or in conflict with the Master Lease Agreement.

TERM.

3. The term of this Agreement shall be for 12 months, commencing on 11/1/98, and terminating on 10/31/99, unless sooner terminated as hereinafter provided. There is a six-month option renewal.

RENT.

4. TENANT shall pay to LANDLORD the following sums per month, in advance, on the first day of each month during the term of this Agreement, as base monthly rent for the Premises: The sum of \$1689.60, per month. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to the LANDLORD at the address stated herein for notices or to such other persons or such other places as the LANDLORD may designate to TENANT in writing.

USE.

5. TENANT shall use the Premises solely for the following purpose and for no other purpose without the LANDLORD's prior written consent: City offices for Balboa Park projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the building in which the Premises are located. If the rate of any insurance carried by the LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other TENANT. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof. TENANT shall not serve foods or drinks from the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD>

TENANT hereby accepts the Premise in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable zoning, municipal, county and state laws, ordinances and regulations governing or regulating the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigative and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither the LANDLORD nor the LANDLORD's agent has made any representation or warranty to TENANT as to the suitability of the Premises for the conduct of TENANT's business.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as the term is defined under the Master Lease Agreement with the City of San Diego.

ALTERATIONS.

6. TENANT shall not, without the LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. As a condition to giving any such consent, the LANDLORD may require the TENANT to remove any such alterations, improvements, or additions at the expiration of the term, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of this Agreement that LANDLORD requires TENANT to remove any such alteration, improvements or additions that TENANT has made to the Premises. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to the condition designated by LANDLORD in its election before the last day of the term of this Agreement. Notwithstanding the provisions of the paragraph, TENANT shall comply in full with each provision of paragraph 10 of this Agreement upon surrender of the Premises.

Before commencing any work relating to the alteration, additions, or improvements affecting the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to assess the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California /Civil Code Section 3143 and shall provide for the payment of any sum that the claimant may recover on the claim (together with the costs of suit, if it is recovered in the action).

Unless the LANDLORD requires their removal as set forth above, all alterations, improvements or additions which are made on the Premises by the TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of the TENANT and removed by TENANT at the expiration of the term of this Agreement.

7. (a) INSURANCE. TENANT is self-insured.

TENANT shall be insured by an insurance carrier acceptable to LANDLORD and the City against loss from public liability arising from the use or condition of or operations conducted on the Premises. Minimum coverage shall be \$1,000,000 (One Million dollars) COMBINED SINGLE LIMIT LIABILITY. A copy of the policy of insurance shall be filed with the City of San Diego and shall name "Hosue of Hospitality Association, Inc." and the "City of San Diego" as additional insured. Said policy shall specify that the policy may not be terminated, altered or

canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance LANDLORD may, but shall not be required to, procure and maintain same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rental to LANDLORD together with TENANT's next rental installment.

(b) WAIVER OF SUBROGATION.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

© HOLD HARMLESS.

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City of San Diego from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arising from, or alleged to have arisen from the operations conducted on the Premises or from any act or omission of TENANT, its agents and invitees.

(d) EXEMPTION OF LANDLORD FROM LIABILITY.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises,; nor shall LANDLORD be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the building in which the Premises are a part, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other TENANT, if any, of the building in which the Premises are located.

8. ASSIGNMENT AND SUBLETTING.

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without prior written consent of LANDLORD and the City, which consent shall not be unreasonably withheld. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City of San Diego's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision

hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

9. DEFAULT.

(a) EVENTS OF DEFAULT.

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT.

- (1) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.
- (2) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).
- (3) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.
- (4) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in the lease, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable lease provision and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES.

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting, the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD

notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all cost, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at its option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (1) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;
- (3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and
- (4) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at such lawful rate specified in this Agreement. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

10. SURRENDER.

On the last day of the term hereof, or on any sooner termination, TENANT shall surrender the Premise to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall repair any damage to the Premises occasioned by its use thereof, or by the removal of TENANT's trade fixtures, furnishings and equipment, which repairs shall include the patching and filling of holes and repair of structural damage. TENANT shall remove all of its personal property and fixtures on the Premises, prior to the expiration of the term of this Agreement and if required by LANDLORD pursuant to Article 6 above, any alterations, improvements or additions made by TENANT to the Premises. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding TENANT resulting from TENANT failure to surrender the Premises.

11. HOLDING OVER.

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the terms of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rental in the amount of the last monthly rental plus all other charges payable hereunder, upon all provisions of this lease applicable to month-to-month tenancy.

12. BINDING ON SUCCESSORS AND ASSIGNS.

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

13. NOTICES.

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
 1549 El Prado
 Balboa Park
 San Diego, Ca. 92101
 (619) 232-2053

TO TENANT AT : Museum of Photographic Arts
 1649 El Prado
 San Diego, Ca. 92101

Such notice shall be deemed to be received when served, of personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

14. LANDLORD'S RIGHT TO INSPECTIONS.

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the building of which the Premises are a part as LANDLORD may deem necessary or desirable.

15. ATTORNEY'S FEES.

Should it become necessary for LANDLORD or the City to commence legal proceedings to collect rent, to recover possession or to enforce any other provision of this Agreement, TENANT agrees to pay all legal costs in connection therewith, including a reasonable sum as attorney's fees.

If LANDLORD or the City engages legal counsel to enforce TENANT's compliance with any provision of this Agreement, TENANT shall pay to LANDLORD or the City as the case may be, as additional rental, all legal costs incurred in connection therewith, including reasonable attorney's fees.

16. WAIVERS.

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

17. TIME.

Time is of the essence of this Agreement.

18. SEVERABILITY.

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

19. COVENANTS AND CONDITIONS.

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

20. ADMINISTRATIVE PROCESSING FEE. Not applicable.

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of ~~Two Hundred Dollars~~ (\$310.00) which LANDLORD shall in turn pay to the city as an administrative processing fee.

TERMINATION.

21. This Agreement may be terminated by either party to this Agreement sixty (60) days following the giving of written notice from one party to the other as provided for herein.

NONDISCRIMINATION.

22. The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in the selection of its membership.

RULES AND REGULATIONS.

23. TENANT shall comply with all reasonable rules and regulations promulgated with respect to the building of which the Premises are a part. Attached hereto as Exhibit A and fully incorporated herein by this reference is a copy of the current rules and regulations for occupants of the House of Hospitality. LANDLORD reserves the right to promulgate additional reasonable rules and regulations concerning the use and occupancy of the building of which the Premises are a part, subject to the approval of the City.

AUTHORITY.

24. The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David K. King

Date: 8.20.98

TENANT: MUSEUM OF PHOTOGRAPHIC ARTS

By: Heath Authorized Agent

Date: August 20, 1998

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

ZOOLOGICAL SOCIETY OF SAN DIEGO

(SUBLESSEE) dated February 23, 1998. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

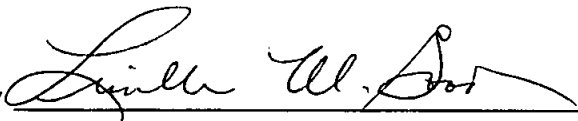
In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

Date

4-8-98

By



Supervisor, Real Estate Assets Department

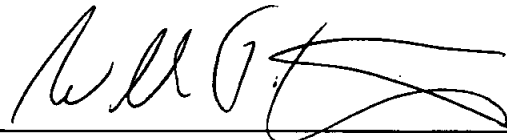
APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date

4/2/98

By



Deputy City Attorney

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of February 23, 1998 by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and the Zoological Society of San Diego, "TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suites No. 1, 4, 5, 6, and 7 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated September 16, 1997 between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for seven (7) years, commencing on April 1, 1998, and terminating on March 31, 2005, unless sooner terminated as hereinafter provided. After three (3) years, TENANT may terminate this Agreement upon not less than six (6) months written notice to LANDLORD. This Agreement shall be renewable by TENANT upon not less than ninety (90) days notice to LANDLORD prior to expiration, upon which notice the parties shall negotiate the terms of the renewal.

4. RENT

TENANT shall pay to LANDLORD the sum of two thousand five hundred and fifty-two dollars and sixty-four cents (\$2,552.64) per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall include utilities, CAM fees of \$0.09 per square foot, electric, plumbing and HVAC. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The

fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. Prior to any scheduled increase, LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: Offices for Zoological Society activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality, provided TENANT shall have notice that such activity or item is prohibited by LANDLORD'S insurance. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. Such written demand shall include evidence that such increase is a result of TENANT'S use, that TENANT was notified that such use was prohibited or may result in an increase, and, if any other tenants are similarly cited as a cause for the increase, the demand shall include a calculation of the percentage of increase attributable to TENANT and TENANT shall be liable for only such proportional share. TENANT shall comply with all laws, rules, regulations, terms, and conditions concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws, rules, regulations, terms and conditions relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. LANDLORD shall provide TENANT with notice of such regulations; imposition of any subsequent regulations shall be reasonable and shall give TENANT adequate time to make any required alterations or modifications to the Premises. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be

used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Offering a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.
 - (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
 - (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

TENANT hereby accepts the Premises in the condition existing as of the date that TENANT

possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business. Notwithstanding the foregoing, LANDLORD represents that the Premises is free from hazardous substances as of TENANT's occupancy.

7. ALTERATIONS

TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions at the expiration of the term of this Agreement, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions, unless otherwise agreed to in writing by the parties. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to its prior condition before the last day of the term of this Agreement. Unless LANDLORD requires their removal, all alterations, improvements or additions which TENANT fails to remove upon expiration of this Agreement, and which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall agree in writing, prior to commencement of said construction, that the construction commenced by

TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. -

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, from the condition of the Premises, not to include any latent defects, or from any act or omission of TENANT, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of

pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Unless TENANT obtains a written novation signed by LANDLORD and the City, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.

(ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).

(iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a

bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in

this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at it's option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;
- (iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall

surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises, prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
 1549 El Prado
 Balboa Park
 San Diego, Ca. 92101
 (619) 232-2053

TO TENANT AT : General Manager
 Zoological Society of San Diego
 2920 Zoo Drive
 San Diego, CA 92103
 (619) 685-3280

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

With TENANT's consent, or upon forty-eight (48) hours notice, LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable. Any non-emergency alterations, repairs, improvements, or additions should be noticed to TENANT five (5) days in advance.

17. ATTORNEY'S FEES

In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by

TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

TENANT shall not discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in it's use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

(a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

(b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.

(c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

(e) LANDLORD represents and warrants that the common areas of the building are ADA-compliant.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of

LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as
of the
day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David Kinney

Its: General Manager

TENANT:

By: Frederick H. Andrews

Its: Director of Finance

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

SPRECKELS ORGAN SOCIETY

(SUBLESSEE) dated October 30, 1997. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

Date 11/18/97

By 
Supervisor, Real Estate Assets Department

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date 11/17/97

By 
Deputy City Attorney

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of 10/30/97, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and Spreckels Organ Society ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite(s) No. 10 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated 10/1/97, 1997, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for 12 months, commencing on 11/15/97, and terminating on 11/14/98, unless sooner terminated as hereinafter provided.

4. RENT

TENANT shall pay to LANDLORD the sum of \$ 478.80 per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: Offices for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, regulations, terms, and conditions concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws, rules, regulations, terms and conditions relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

(iii) Any available drug counseling, rehabilitation, and employee assistance programs.

(iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

TENANT hereby accepts the Premise in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions at the expiration of the term of this Agreement, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to its prior condition before the last day of the term of this Agreement. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by

TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.

(ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).

(iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at it's option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises, prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : Spreckels Organ Society
1549 El Prado Suite 10
San Diego, Ca. 92101

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

(a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

(b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.

(c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David K. King

Its: General Manager

TENANT:

By: Vivian Evenson, President

Its: Aprukles Organ Society

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

YOUNG AUDIENCES

(SUBLESSEE) dated October 28, 1997. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

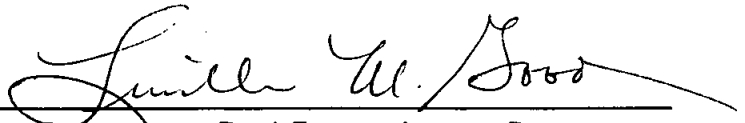
In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

Date

11/18/97

By


Supervisor, Real Estate Assets Department

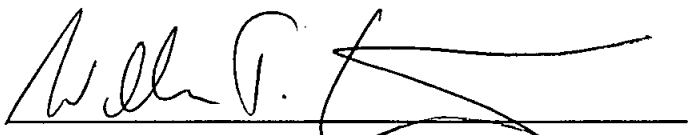
APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date

11/17/97

By


Deputy City Attorney

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of 10/28/97, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and Young Audiences ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite(s) No. 9 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated 10/1/97, 1997, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for 12 months, commencing on 11/8/97, and terminating on 11/7/98, unless sooner terminated as hereinafter provided.

4. RENT

TENANT shall pay to LANDLORD the sum of \$ 478.80 per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: Offices for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, regulations, terms, and conditions concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws, rules, regulations, terms and conditions relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

TENANT hereby accepts the Premise in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions at the expiration of the term of this Agreement, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to its prior condition before the last day of the term of this Agreement. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by

TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.

(ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).

(iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at it's option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises, prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : Young Audiences
1549 El Prado Suite 9
San Diego, Ca. 92101

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

(a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.

(b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.

(c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

(d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: Daniel Kinn
Its: General Manager

TENANT:

By: AM Harper
Its: Executive Director

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

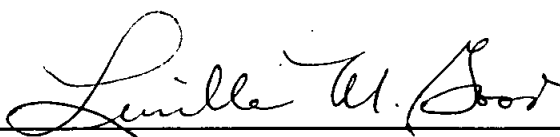
TIMKEN MUSEUM OF ART

(SUBLESSEE) dated October 31, 1997. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

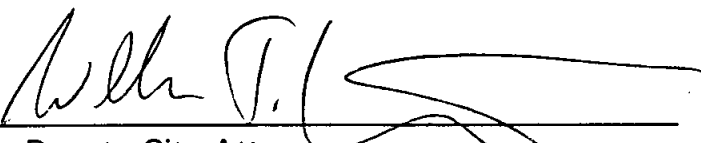
Date 11/18/97

By 
Supervisor, Real Estate Assets Department

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date 11/17/97

By 
Deputy City Attorney

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of 10/31/97, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and Timken Museum of Art, "TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite(s) No. 11 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated 10/1/97, 1997, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for 12 months, commencing on 11/15/97, and terminating on 11/14/98, unless sooner terminated as hereinafter provided.

4. RENT

TENANT shall pay to LANDLORD the sum of \$ 438.48 per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: Offices for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, regulations, terms, and conditions concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws, rules, regulations, terms and conditions relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

- (iii) Any available drug counseling, rehabilitation, and employee assistance programs.
- (iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

TENANT hereby accepts the Premise in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions at the expiration of the term of this Agreement, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to its prior condition before the last day of the term of this Agreement. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by

TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

- (i) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.
- (ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).
- (iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.
- (iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at it's option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

(i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises, prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : Timken Museum of Art
1549 El Prado Suite 11
San Diego, Ca. 92101
(619) 239-5548

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

line missing

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

- (a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- (b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.
- (c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- (d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David L. King
Its: General Manager

TENANT:

By: John G. Hester, Tinker Museum
Its: Executive Director

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) entered into with

HOUSE OF HOSPITALITY ASSOCIATION, INC.

(LESSEE) and filed in the Office of the City Clerk as Document RR-289141, as amended, hereby consents to that certain Sublease Agreement between the above LESSEE (SUBLESSOR) and

PASSPORT TO BALBOA PARK

(SUBLESSEE) dated October 28, 1997. Said Sublease shall be subordinate to the Master Lease in all respects. The CITY is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions in the Sublease. The CITY is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

In addition, this consent is subject to the following conditions: None.

THE CITY OF SAN DIEGO

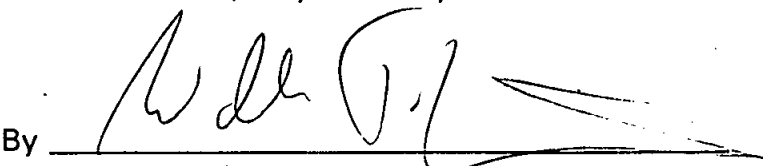
Date 11/18/97

By 
Supervisor, Real Estate Assets Department

APPROVED AS TO FORM:

CASEY GWINN, City Attorney

Date 11/17/97

By 
Deputy City Attorney

RENTAL AGREEMENT

This Rental Agreement (this "Agreement") is made as of 10/28/97, by and between the HOUSE OF HOSPITALITY ASSOCIATION, INC., A CALIFORNIA NONPROFIT CORPORATION ("LANDLORD") and Passport to Balboa Park ("TENANT").

1. PREMISES

LANDLORD hereby subleases to TENANT and TENANT hereby subleases from LANDLORD, on the terms and conditions hereinafter set forth, that certain real property commonly known as Suite(s) No. 2 of the House of Hospitality, located in Balboa Park, San Diego, California (the "Premises").

2. SUBORDINATION

This Agreement is a sublease of a portion of the premises covered by that certain Nonprofit Lease dated 10/1/97, 1997, between the City of San Diego (the "City"), as landlord, and LANDLORD, as tenant (the "Master Lease"). This Agreement is subject and subordinate to all of the covenants and conditions of the Master Lease notwithstanding any provision hereof contrary to or in conflict with the Master Lease.

3. TERM

The term of this Agreement shall be for 12 months, commencing on 11/1/97, and terminating on 10/31/98, unless sooner terminated as hereinafter provided.

4. RENT

TENANT shall pay to LANDLORD the sum of \$ 357.84 per month, in advance, on the first day of each month during the term of this Agreement, as monthly rent for the Premises. Rent shall be payable without notice or demand and without any deduction, off-set or abatement in lawful money of the United States to LANDLORD at the address stated herein for notices or to such other persons or such other places as LANDLORD may designate to TENANT in writing.

The rent shall be adjusted on each anniversary of the commencement date of this Agreement ("Adjustment Date") to reflect any upward change in the Index, as defined below. The adjustment shall be calculated by multiplying the rent in effect as of the commencement date by a fraction, the numerator of which shall be the Index most recently published prior to the Adjustment Date and the denominator of which shall be the Index most recently published prior to the commencement date. In no event shall the rent for any subsequent year be reduced below the rent for the year immediately preceding the Adjustment Date. LANDLORD shall give written notice to TENANT indicating the amount of the adjustment and manner of computation of same as soon as the information becomes available to LANDLORD. Delay in notification of the amount of adjustment shall not affect TENANT's obligation to pay the rent as previously adjusted or the amount of increase, if any, immediately upon receipt of notification of same. For purpose of this paragraph, the Index shall be the Consumer Price Index for all Urban Consumers (All Items) - for Los Angeles, Long Beach and Riverside, based on the period 1982-84 = 100 as published by the U.S. Department of Labor, Bureau of Labor Statistics (the "Index"). If the Index is calculated from a base different from the base period 1982-84 = 100, the base figure used for calculating the adjustment percentage shall first be converted under a formula supplied by the Bureau of Labor Statistics. If the Index shall no longer be published, another index generally recognized as authoritative shall be substituted by LANDLORD.

5. USE; ACCEPTANCE

TENANT shall use the Premises solely for the following purpose and for no other purpose without LANDLORD's prior written consent: Offices for Balboa Park activities and projects.

TENANT shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises or the House of Hospitality. If the rate of any insurance carried by LANDLORD is increased as a result of TENANT's use, TENANT shall pay to LANDLORD within ten (10) days after written demand from LANDLORD, the amount of any such increase. TENANT shall comply with all laws, rules, regulations, terms, and conditions concerning the Premises or TENANT's use of the Premises, including without limitation, the obligation at TENANT's cost to alter, maintain, or restore the Premises in compliance and conformity with all laws, rules, regulations, terms and conditions relating to the condition, use, or occupancy of the Premises by TENANT during the term of this Agreement. TENANT shall not use or permit the use of the Premises in any manner that will tend to create waste or a nuisance or which shall unreasonably disturb any other tenant. TENANT shall not use the Premises for the sale of intoxicating liquors nor allow intoxicating liquors to be consumed on the Premises or any portion thereof, without the prior written consent of LANDLORD and without first obtaining an approved policy of insurance for such purpose. TENANT shall not serve foods or drinks from the Premises other than light refreshments, or permit the Premises or any portion thereof to be used for the service of any foods or drinks other than light refreshments, without the prior written consent of LANDLORD.

TENANT shall not allow the release of hazardous substances in, on, under, or from the Premises. A release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into California's list of hazardous substances. A copy of the presently effective EPA and California lists are on file in the Office of the City Clerk as Document 769704-1 and by this reference incorporated herein. In the event of any release of a hazardous substance, TENANT shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities. TENANT agrees to assume the defense of, indemnify, and hold LANDLORD and the City harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from TENANT'S operations on the Premises, including but not limited to costs of environmental assessments, cost or remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

TENANT shall be required to abide by the omnibus drug legislation passed by United State's Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the Premises and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (i) The dangers of drug abuse in the workplace.
 - (ii) The TENANT's policy of maintaining a drug-free workplace.

(iii) Any available drug counseling, rehabilitation, and employee assistance programs.

(iv) The penalties that may be imposed upon employees for drug abuse violations.

TENANT shall not use or permit others to use the Premises or any portion thereof for political activities as described in the Master Lease.

6. ACCEPTANCE; AS IS CONDITION

TENANT hereby accepts the Premise in the condition existing as of the date that TENANT possesses the Premises, subject to all applicable city, municipal, county and state laws, ordinances and regulations governing the use of the Premises. TENANT has independently inspected the Premises and made all tests, investigations and observations necessary to satisfy itself of the condition of the Premises, and is relying solely on the same in entering into this Agreement. TENANT hereby acknowledges that neither LANDLORD nor LANDLORD's agents have made any representations or warranties to TENANT as to the suitability of the Premises for the conduct of TENANT's activities and business.

7. ALTERATIONS

TENANT shall not, without LANDLORD's and the City's prior written consent, make any alterations, improvements or additions in or about the Premises. Any such alterations, improvements or additions shall be completed in accordance with the Design Manual for the House of Hospitality. LANDLORD may require TENANT to remove any such alterations, improvements, or additions at the expiration of the term of this Agreement, and to restore the Premises to their prior condition by giving TENANT written notice prior to or upon the expiration of the term of this Agreement that LANDLORD requires TENANT to remove any such alterations, improvements or additions. If LANDLORD so elects, TENANT, at its sole cost, shall restore the Premises to its prior condition before the last day of the term of this Agreement. Unless LANDLORD requires their removal, all alterations, improvements or additions which are made on the Premises by TENANT shall become the property of the LANDLORD and remain upon and be surrendered with the Premises at the expiration of the term of this Agreement. Notwithstanding the provisions of this paragraph, TENANT's trade fixtures, furniture, equipment and other machinery, other than that which is affixed to the Premises so that it cannot be removed without material or structural damage to the Premises, shall remain the property of TENANT and shall be removed by TENANT at the expiration of the term.

Before commencing any work relating to the alteration or improvement of the Premises, TENANT shall notify LANDLORD in writing of the expected date of the commencement of such work so that LANDLORD can post and record the appropriate notices of non-responsibility to protect LANDLORD from any mechanic's liens, materialmen's liens, or any other liens. In any event, TENANT shall pay, when due, all claims for labor or material furnished to TENANT or claimed to have been furnished to TENANT or TENANT's agent or contractors in connection with work of any character performed or claimed to have been performed on the Premises by or at the direction of TENANT. TENANT shall have the right to contest the validity of any such lien if, immediately on demand by LANDLORD, TENANT procures and records a lien release bond meeting the requirements of California Civil Code Section 3143.

Whenever there is any construction to be performed on the Premises, TENANT shall deposit with LANDLORD prior to commencement of said construction, a faithful performance bond in the amount of one hundred percent (100%) of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LANDLORD. The bond shall insure that the construction commenced by

TENANT shall be completed in accordance with the plans approved by LANDLORD and the City or, at the option of LANDLORD, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LANDLORD. The bond or cash will be held in trust by LANDLORD for the purpose specified above or, at LANDLORD's option, it may be placed in an escrow or other trust approved by LANDLORD.

8. INSURANCE

TENANT shall take out and maintain during the term of this Agreement with an insurance carrier acceptable to LANDLORD and the City (a) public liability insurance protecting against loss from public liability arising from the use or condition of, or operations conducted on, the Premises with minimum coverage of \$1,000,000 COMBINED SINGLE LIMIT LIABILITY and (b) fire legal insurance on all insurable property on the Premises with minimum coverage of \$250,000. A copy of the policy or policies of insurance shall be filed with LANDLORD and the City and shall name "House of Hospitality Association, Inc." and the "City of San Diego" as additional insureds. Said policy shall specify that the policy may not be terminated, altered or canceled without 30 (thirty) days prior written notice to LANDLORD and to the City by the insurance company.

If TENANT shall fail to procure and maintain such insurance, LANDLORD may, but shall not be required to, procure and maintain the same at the expense of TENANT and the cost thereof, together with interest thereon at the rate of ten percent (10%) per annum, shall become due and payable as additional rent to LANDLORD together with TENANT's next rent installment.

TENANT and LANDLORD each waive any and all rights of recovery against the other, or against the officers, employees, agents, and representatives of the other, for loss of or damage to such waiving party or its property or the property of others under its control, where such loss or damage is insured under any insurance policy in force at the time of such loss or damage. Each party shall cause each insurance policy obtained by it hereunder to provide that the insurance company waives all right of recovery by way of subrogation against either party in connection with any damage covered by any such policy.

9. INDEMNITY; EXEMPTION FROM LIABILITY

TENANT shall assume the defense of, indemnify and save harmless LANDLORD and the City from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from the operations conducted on the Premises, from the condition of the Premises, or from any act or omission of TENANT, its agents and invitees.

Except for LANDLORD's negligent conduct, TENANT hereby agrees that LANDLORD and the City shall not be liable for any injury to TENANT's business or loss of income therefrom or for damage to the goods, wares, merchandise, or other property of TENANT, TENANT's employees, invitees, customers or any other person in or about the Premises; nor shall LANDLORD or the City be liable for injury to the person of TENANT, TENANT's employees, agents, contractors, or invitees, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defect of pipes, sprinklers, wires, appliances, plumbing, air-conditioning, or lighting fixtures, or from any other cause, whether such damage results from conditions arising upon the Premises or upon other portions of the House of Hospitality, or from any other sources or places. LANDLORD shall not be liable to TENANT for any damage arising from any act or neglect of any other tenant of the House of Hospitality.

10. ASSIGNMENT AND SUBLETTING

TENANT shall not voluntarily or by operation of law assign, transfer, sublet, mortgage, or otherwise transfer or encumber all or any part of TENANT's interest in this Agreement or in the Premises without the prior written consent of LANDLORD and the City. Any attempted assignment, transfer, mortgage, encumbrance, or subletting without such consent shall be void and shall constitute a breach of this Agreement. An assignment by operation of law shall automatically terminate this Agreement.

Regardless of LANDLORD's or the City's consent, no subletting or assignment shall release TENANT of TENANT's obligation to pay the rent and to perform all other obligations to be performed by TENANT hereunder for the term of this Agreement. The acceptance of rent by LANDLORD from any other person shall not be deemed a waiver by LANDLORD of any provision hereof. Consent to one assignment or subletting shall not be deemed consent to any subsequent assignment or subletting.

11. DEFAULT

(a) EVENTS OF DEFAULT

The occurrence of any one or more the following events shall constitute a default and breach of this Agreement by TENANT:

(i) Failure to pay rent when due, if the failure continues for three (3) calendar days after written notice has been given to TENANT.

(ii) Abandonment and vacation of the Premises (failure to occupy the Premises for fourteen (14) consecutive days shall be deemed an abandonment and vacation).

(iii) Failure to perform any other provision of this Agreement if the failure to perform is not cured within thirty (30) days after written notice thereof has been given to TENANT by LANDLORD. If the default cannot reasonably be cured within said thirty (30) day period, TENANT shall not be in default under this Agreement if TENANT commences to cure the default within the thirty (30) day period and diligently prosecutes the same to completion.

(iv) The making by TENANT of any general assignment, or general arrangement, for the benefit of creditors; the filing by or against TENANT of a petition to have TENANT adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy unless the same is dismissed within sixty (60) days following the filing of such petition; the appointment of a trustee or receiver to take possession of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where possession is not restored to TENANT within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of TENANT's assets located at the Premises or of TENANT's interest in this Agreement, where such seizure is not discharged within thirty (30) days.

Notices given under this paragraph shall specify the alleged default and the applicable provision of this Agreement and shall demand that TENANT perform the provision of this Agreement or pay the rent that is in arrears, as the case may be, within the applicable period of time. No such notice shall be deemed a forfeiture or a termination of this Agreement unless LANDLORD so elects in the notice.

(b) LANDLORD'S REMEDIES

LANDLORD shall have the following remedies if TENANT commits a default under this Agreement. These remedies are not exclusive but are cumulative and in addition to any remedies now or hereafter allowed by law.

LANDLORD can continue this Agreement in full force and effect, and the Agreement will continue in effect so long as LANDLORD does not terminate TENANT's right to possession, and LANDLORD shall have the right to collect rent when due. During the period that TENANT is in default, LANDLORD can enter the Premises and relet them, or any part of them, to third parties for TENANT's account. TENANT shall be liable immediately to LANDLORD for all costs LANDLORD incurs in reletting the Premises, including, without limitation, broker's commissions, expenses of remodeling the Premises required by the reletting, costs of repair and like costs. Reletting can be for a period shorter or longer than the remaining term of this Agreement. TENANT shall pay to LANDLORD the rent due under this Agreement on the date the rent is due, less the rent LANDLORD receives from any reletting. No act by LANDLORD allowed by this paragraph shall terminate this Agreement unless LANDLORD notifies TENANT that LANDLORD elects to terminate this Agreement. After TENANT's default and for so long as LANDLORD has not terminated TENANT's right to possession of the Premises, if TENANT obtains LANDLORD's and the City's consent, TENANT shall have the right to assign or sublet its interest in this Agreement, but TENANT shall not be released from liability hereunder. LANDLORD's and the City's consent to the proposed assignment or subletting shall not be unreasonably withheld.

If LANDLORD elects to relet the Premises as provided in this paragraph, any rent that LANDLORD receives from such reletting shall apply first to the payment of any indebtedness from TENANT to LANDLORD other than the rent due from TENANT to LANDLORD; secondly to all costs, including maintenance, incurred by LANDLORD in such reletting; and third, to any rent due and unpaid under this Agreement. After deducting the payments referred to in this paragraph, any sum remaining from the rent LANDLORD receives from such reletting shall be held by LANDLORD and applied in payment of future rent as rent becomes due under this Agreement. In no event shall TENANT be entitled to any excess rent received by LANDLORD. If, on the date rent is due under this Agreement, the rent received from the reletting is less than the rent due on that date, TENANT shall pay to LANDLORD, as additional rent, in addition to the remaining rent due, all costs, including maintenance, that LANDLORD shall have incurred in reletting that remain after applying the rent received from the reletting as provided in this paragraph.

LANDLORD can, at its option, terminate TENANT's right to possession of the Premises at any time. No act by LANDLORD other than giving written notice to TENANT shall terminate this Agreement. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on LANDLORD's initiative to protect LANDLORD's interest in this Agreement shall not constitute a termination of TENANT's right to possession. In the event of such termination, LANDLORD has the right to recover from TENANT the following:

- (i) The worth at the time of award of the unpaid rent which had been earned at the time of the termination of this Agreement;
- (ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after the date of the termination of this Agreement until the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of the award exceeds the amount of such rental loss that TENANT proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate LANDLORD for all detriment proximately caused by TENANT's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

The "worth at the time of award," as used in (1) and (2) of this paragraph is to be computed by allowing interest at the maximum legal rate. The "worth at the time of the award" as referred to in (3) of this paragraph is to be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one (1%) percent.

If TENANT is in default under the terms of this Agreement, LANDLORD shall have the additional right to have a receiver appointed to collect rent and conduct TENANT's business. Neither the filing of a petition for the appointment of a receiver nor the appointment itself shall constitute an election by LANDLORD to terminate this Agreement.

LANDLORD at any time after TENANT commits a default, can cure the default at TENANT's cost and expense. If LANDLORD at any time, by reason of TENANT's default, pays any sum or does any act that requires the payment of any sum, the sum paid by LANDLORD shall be due immediately from TENANT to LANDLORD at the time the sum is paid, and if paid at a later date shall bear interest at ten percent (10%) per annum from the date the sum is paid by LANDLORD until LANDLORD is reimbursed by TENANT. The sum, together with interest thereon, shall be considered additional rent.

12. SURRENDER

On the last day of the term of this Agreement, or on any sooner termination, TENANT shall surrender the Premises to LANDLORD in good condition, broom clean, ordinary wear and tear excepted. TENANT shall remove all of its fixtures, furnishings and equipment on the Premises, and, if required by LANDLORD, any alterations, improvements and additions made by TENANT to the Premises, prior to the expiration of the term of this Agreement. If TENANT fails to surrender the Premises to LANDLORD on the expiration of this Agreement as required by this paragraph, TENANT shall hold LANDLORD harmless from all damages resulting from TENANT's failure to vacate the Premises, including, without limitation, claims made by any succeeding tenant resulting from TENANT's failure to surrender the Premises.

13. HOLDING OVER

If TENANT, with LANDLORD's and the City's consent, remains in possession of the Premises after the expiration or termination of the term of this Agreement, such possession by TENANT shall be deemed to be a tenancy from month-to-month at a rent in the amount of the last monthly rent plus all other charges payable hereunder, and upon all other provisions of this lease.

14. SUCCESSORS AND ASSIGNS

The terms, conditions and covenants of this Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors and assigns.

15. NOTICES

Whenever under this Agreement a provision is made for any demand, notice or declaration of any kind, it shall be in writing and served either personally or sent by registered or certified United States mail, postage prepaid, addressed at the addresses as set forth below:

TO LANDLORD AT: House of Hospitality Association, Inc.
1549 El Prado
Balboa Park
San Diego, Ca. 92101
(619) 232-2053

TO TENANT AT : Passport to Balboa Park
1549 El Prado Suite 2
San Diego, Ca. 92101

Such notice shall be deemed to be received when served, if personally served, and upon the expiration of forty-eight (48) hours from the time of mailing, if mailed as provided for in this paragraph.

16. LANDLORD'S RIGHT TO INSPECTIONS

LANDLORD and LANDLORD's agent shall have the right to enter the Premises at all reasonable times for the purpose of inspecting same, and making such alterations, repairs, improvements or additions to the Premises or to the House of Hospitality as LANDLORD may deem necessary or desirable.

17. ATTORNEY'S FEES

In the event of any litigation regarding this lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

18. NO WAIVERS

No waiver by LANDLORD of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by TENANT of the same or any other provision. LANDLORD's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of LANDLORD's consent to or approval of any subsequent act by TENANT. The acceptance of rent hereunder by LANDLORD shall not be a waiver of any preceding breach by TENANT of any provision hereof, other than the failure of TENANT to pay the particular rent so accepted, regardless of LANDLORD's knowledge of such preceding breach at the time of its acceptance of such rent.

19. TIME

Time is of the essence with respect to all provisions of this Agreement.

20. SEVERABILITY

The unenforceability, invalidity, or illegality of any provision of the Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

21. COVENANTS AND CONDITIONS

Each provision of this Agreement performable by TENANT shall be deemed both a covenant and a condition.

22. ADMINISTRATIVE PROCESSING FEE

TENANT understands that this Agreement is subject to prior approval by the City and shall not be effective unless and until the City gives its approval. Upon execution of this Agreement by TENANT, TENANT shall pay to LANDLORD the sum of Three Hundred Ten Dollars (\$310.00) which LANDLORD shall in turn pay to the City as an administrative processing fee.

23. NONDISCRIMINATION

The general public shall not be excluded from the Premises or any portion thereof nor shall TENANT discriminate on the basis of race, color, creed, national origin, ancestry, sex, religious creed, marital status, disability or age in its use of the Premises.

TENANT agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (the "ADA"); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. TENANT's compliance shall include but not necessarily be limited to the following:

- (a) TENANT shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- (b) No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of TENANT.
- (c) TENANT shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- (d) Where required by law, TENANT shall comply with the City's disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of TENANT.

24. RULES AND REGULATIONS

TENANT shall comply with all reasonable rules and regulations promulgated by LANDLORD with respect to the House of Hospitality. LANDLORD reserves the right to promulgate from time to time reasonable rules and regulations concerning the use and occupancy of the House of Hospitality, subject to such approval of the City as may be required.

25. AUTHORITY

The persons executing this Agreement on behalf of LANDLORD and TENANT, respectively, represent and warrant that they have the authority to execute this Agreement on behalf of LANDLORD and TENANT, respectively.

IN WITNESS WHEREOF, LANDLORD and TENANT have executed this Agreement as of the day and year first above written.

LANDLORD: HOUSE OF HOSPITALITY ASSOCIATION, INC.

By: David Kinney
Its: General Manager

TENANT:

By: Mr. R. J. Smith
Its: Director

DUPLICATE



THE HOUSE OF HOSPITALITY,
a California nonprofit corporation
(LESSOR)

HARD WORK TOO, INC.,
a California corporation
(LESSEE)

Percentage Lease

DUPLICATE

DOCUMENT NO. RR-291443-2

FILED MAR 29 1999

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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House of Hospitality
PERCENTAGE LEASE

THIS LEASE AGREEMENT (this "Lease") is executed between the HOUSE OF HOSPITALITY ASSOCIATION, INC., a California nonprofit corporation, hereinafter called "LESSOR," and HARD WORK TOO, INC., a California corporation, hereinafter called "LESSEE."

SECTION 1: USES

- 1.1 Premises. LESSOR hereby leases to LESSEE and LESSEE leases from LESSOR all of that certain real property situated in the City of San Diego, County of San Diego, State of California, being a portion of the House of Hospitality building in Balboa Park and described in Exhibit "A", attached hereto and by this reference made part of this Lease (the "Premises"). The Premises includes approximately one thousand eight hundred ninety six (1,896) square feet of storage space in the basement to be delivered to LESSEE upon commencement of the term except approximately five hundred (500) square feet thereof which shall be delivered to LESSEE on April 1, 1999, or as soon thereafter as LESSOR is reasonably able to deliver the same to LESSEE. This Lease is subject to a master lease between the City of San Diego (the "CITY"), as lessor, and LESSOR, as lessee (the "Master Lease").
- 1.2 Uses. It is expressly agreed that the Premises are leased to LESSEE solely and exclusively for the purposes of development, operation, and maintenance of a full-service restaurant and catering business limited primarily to customers in Balboa Park, in accordance with the General Development Plan referenced in Section 6.13, Development Plan, and for such other related or incidental purposes as may be first approved in writing by the City Manager and for no other purpose whatsoever. The term "full-service restaurant", as used herein, shall mean a restaurant that serves (i) lunch and dinner meals, the menus for which shall include a reasonable number of moderately-priced selections, that are served by a waiter or waitress at the customer's table; and (ii) Sunday brunch. In no event shall "full-service restaurant" include a fast-food establishment; provided, however, LESSEE or LESSEE's concessionaire shall have the right to have a coffee and food serving cart on the Premises. The physical appearance of the cart and its location on the Premises shall be subject to LESSOR's prior written approval. LESSEE or LESSEE's concessionaire may not have more than one coffee and food serving cart on the Premises

without LESSOR's prior written approval. Catering services provided to customers outside Balboa Park ("offsite catering") shall be limited to twenty-five percent (25%) of the catering activities undertaken by LESSEE, as evidenced by the ratio of gross revenues generated by offsite catering to the total revenues from all catering activities. LESSEE shall maintain written records that report revenues from Balboa Park and offsite catering activities that conform to generally accepted accounting principles, with such records available for LESSOR's inspection upon LESSOR's giving reasonable advance notice to LESSEE. LESSEE shall have the exclusive right to restaurant and catering operations only in the House of Hospitality building and grounds, which grounds are described below. At no time shall a catering service, other than that provided by LESSEE, cater food or beverages anywhere in the building and grounds without LESSEE's prior written approval.

Certain additional areas outside the Premises but within the House of Hospitality building or grounds, which are designated on the attached Exhibit "B" as "public catering areas," shall be available to LESSEE for LESSEE's primary use. LESSEE may reserve and rent out these public catering areas for meetings, banquets, weddings, and similar functions involving full, partial, or no food and/or beverage service. LESSEE's use of those public catering areas identified as "Courtyard" and "Middle and Lower Garden Terraces" on the attached Exhibit "B" shall be subject to the following conditions and restrictions to ensure reasonable public access:

The Courtyard shall be open to public use until the earlier to occur of (i) the end of normal hours of building operation; or (ii) 5:30 p.m.

The Middle and Lower Garden Terraces shall be open to public use when not being rented out by LESSEE. LESSEE does not need a special permit from the CITY to use these Garden Terraces. LESSEE understands and agrees that it is important that all Balboa Park tenants adhere to a "good neighbor policy". Therefore, LESSEE will use its best efforts to coordinate scheduling with the CITY Park and Recreation Department, in order to avoid any use of these Garden Terraces that may disrupt events held at the Organ Pavilion and surrounding areas.

Notwithstanding the foregoing, (i) the House of Hospitality building tenants may hold self-hosted functions in their respective premises, at which they provide their own food and beverages; (ii) LESSOR, at no charge from LESSEE, may host functions related solely to House of Hospitality Association business in the public catering areas; and (iii) CITY, at no charge from LESSEE, may host functions related solely to official CITY

business in the public catering areas. Such functions by LESSOR or CITY are to be scheduled no more than 21 days in advance and shall not conflict with other events scheduled by LESSEE. LESSOR and CITY may provide their own food and beverages at such functions; however, they are encouraged to use the services of LESSEE.

The room identified as "Requa Board Room" on the attached Exhibit "B" is not part of the Premises. LESSEE may, however, use the Requa Board Room in the same manner LESSEE is entitled to use the public catering areas under the terms of this Lease, provided that LESSEE obtains LESSOR'S prior written approval which shall not be unreasonably withheld.

LESSEE covenants and agrees to use the Premises and public catering areas throughout the term for the above-specified purposes and to diligently conduct business thereon to produce the most gross income that can be reasonably expected. Further, LESSEE shall give preference to catering opportunities within the House of Hospitality building before such opportunities outside of the House of Hospitality building. Subject to the right of LESSEE to cure as set forth in Section 4.4a.1, Default, and the provisions of Section 6.12, Unavoidable Delay, failure to continuously use the Premises for said purposes, or the use thereof for purposes not expressly authorized herein, shall be grounds for termination by LESSOR.

Subject to the right of LESSEE to cure as set forth in Section 4.4a.1, Default, the use of the Premises and/or public catering areas for any unauthorized purpose shall constitute a substantial default and subject this Lease to termination at the sole option of LESSOR.

- 1.3 Related Council Actions. By consenting to the execution of this Lease, LESSEE acknowledges neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Premises.
- 1.4 Quiet Possession. LESSEE, paying the rent and performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold, and enjoy the Premises. If LESSOR for any reason cannot deliver possession of the Premises to LESSEE at the commencement of the term, or if during the term LESSEE is temporarily dispossessed through action or claim of a title superior to LESSOR's, then and in either of

such events, this Lease shall not be voidable nor shall LESSOR be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by LESSOR a proportionate reduction of the minimum or flat rate rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the Premises.

1.5 Easements and Reservations.

LESSEE acknowledges the following:

- a. CITY hereby reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises.
- b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access as it deems advisable for the public good.
- c. CITY has the right to enter the Premises for the purpose of making repairs to or developing municipal resources and services.
- d. However, CITY shall not unreasonably or substantially interfere with LESSEE's use of the Premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

1.6 Competent Management. Throughout the term of this Lease, LESSEE shall provide competent management of the Premises to the satisfaction of LESSOR. For the purposes of this section, "competent management" shall mean demonstrated ability in the management and operation of a full-service restaurant and catering business and related activities in a fiscally responsible manner.

1.7 Operation of Facilities. A regular schedule of days and hours of operation shall be established by LESSEE to best serve the public as set forth in Section 9.4, Schedule of Days and Hours of Operation. Any changes in this schedule shall be subject to the prior written approval of LESSOR.

LESSEE shall diligently and in a creditable manner furnish services to the public in conformity with all applicable rules and regulations of the CITY. To the extent legally permissible, LESSEE shall be exempt from any future livable wage ordinances.

- 1.8 Parking. LESSEE acknowledges that CITY will use its best efforts to designate a public parking lot in Balboa Park for LESSEE's customers' non-exclusive use and that, throughout the term of this Lease, the Park and Recreation Department of CITY shall issue LESSEE a right-of-entry permit at no charge designating a public parking lot in Balboa Park from which LESSEE can operate valet parking or shuttle service to and from the Premises. LESSEE understands that it may not reserve parking spaces and that availability of parking spaces is not guaranteed by the Park and Recreation Department of CITY. LESSEE acknowledges that upon prior notice to LESSEE, the Park and Recreation Department may designate a different public parking lot in Balboa Park, and the choice of parking lot shall be determined in the sole and absolute discretion of the Department. Any parking and directional signs used by LESSEE shall be portable and set up and removed each day. The size, design, and placement of signs shall be subject to prior approval by the Park and Recreation Department.

SECTION 2: TERM

- 2.1 Total Term. Except as set forth below, the total term of this Lease shall be a minimum of twenty and one-half (20 ½) years, consisting of two successive and contiguous periods referred to as a "construction term" and a "regular term," as follows:
- a. Construction Term. The construction term shall commence on the date that the CITY Council approves this Lease, and end six (6) months thereafter. LESSEE shall have the right to open for business during the construction term. The parties intend that LESSEE open for business no later than the end of the construction term. LESSEE shall use its commercially reasonably best efforts to accomplish the same.
 - b. Regular Term. The regular term shall commence on the day after the end of the construction term and end on that date which is exactly twenty and one-half (20 1/2) years after CITY Council approval; provided, however, if the ending date falls on a day other than the last day of the month, then the ending date shall be deemed to be the last day of that month.

Notwithstanding the foregoing, LESSEE shall have the right to terminate this Lease at the end of the first five and one-half (5½) years after the commencement of the construction term by giving notice to LESSOR of such termination between the beginning of the forty-ninth (49th) month and the end of the fifty-fourth (54th) month of the regular term, and the payment of One Hundred Thousand Dollars (\$100,000.00) to LESSOR, payable in twelve (12) equal monthly installments of Eight Thousand Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$8,333.33) each in addition to the monthly rent due under the Lease, beginning thirty (30) days after notice is given. Said amount and the resulting equal monthly installments shall be reduced, up to the whole thereof, by the aggregate amount of any minimum rent credit and percentage rent credit contemplated under Sections 3.3a., Minimum Rent, and 3.4, Payment Procedure, the benefit of which LESSEE has not yet received (said rent credits may reduce said amount to Zero Dollars (\$0), but LESSOR shall have no obligation to compensate LESSEE for any unused rent credits). In the event LESSEE exercises its right of early termination, upon termination, LESSOR shall have the right to purchase all, and no less than all, of LESSEE's furniture, removable fixtures, which types of fixtures are generally described on Exhibit "C" ("Tenant's Fixtures"), and equipment at the Premises, at its fair market value by giving written notice to LESSEE within sixty (60) days after receipt of the termination notice. The fair market value shall be determined by mutual consent of LESSOR and LESSEE or through appraisal, as follows, and shall be the fair market value of the furniture, Tenant's Fixtures, and equipment, in place.

In the event the fair market value is not determined by mutual consent within thirty (30) days, then LESSEE and LESSOR will refer the matter to appraisal, as follows.

The fair market value shall be determined by a professional independent appraiser qualified in appraising restaurant equipment selected by mutual consent of LESSEE and LESSOR from the list of appraisers approved by the CITY. LESSOR and LESSEE agree to equally share the cost of the mutually selected appraiser. In the event LESSEE and LESSOR do not reach agreement as to selection of a mutually acceptable appraiser, then LESSEE and LESSOR shall each select a professional independent appraiser qualified in appraising restaurant equipment who in return will select a third qualified professional independent appraiser, which third appraiser will be employed to set the fair market value of LESSEE's furniture, Tenant's Fixtures, and equipment. In the event a mutually acceptable third appraiser is not agreed upon between the two selected appraisers within ten (10) days, then the third appraiser will be appointed by the presiding

judge of the Superior Court of the State of California, County of San Diego, acting in his or her individual capacity, upon application by either LESSOR or LESSEE with prior notice thereof to the other party. Said third appraiser shall complete the assignment within sixty (60) days of the appointment. Each party shall pay the cost of its own selected appraiser, and both LESSOR and LESSEE agree to equally share the cost of the third mutually selected or judge-appointed appraiser. LESSOR and LESSEE agree to accept and be bound by the fair market value determined by the appraiser selected or appointed to complete the assignment.

In appraising the personal property, the appraiser shall consider the value of the personal property in place. After the purchase price for the personal property has been set, the appraiser shall immediately notify the parties. Within ten (10) days after notification of the purchase price, LESSOR shall pay the fair market value of such furniture, Tenant's Fixtures, and equipment in cash or, at LESSOR's option, such amount shall be offset against any sums due by LESSEE to LESSOR, including without limitation, any termination fee, rent or percentage rent. If LESSOR does not exercise this right, then, subject to the provisions of Section 6.11, Ownership of Improvements and Personal Property, LESSEE shall have the right to remove its personal property, including furniture, Tenant's Fixtures, equipment and inventory from the Premises.

c. Lease Year. The term "lease year" as used in this Lease shall mean the twelve (12)-month period commencing on the day after the end of the construction term and each twelve (12)-month period thereafter; provided, however, if the day the first lease year commences is other than the last day of the month, then and in that event, the first lease year shall be extended to end on the last day of the month at the end of the first lease year. Thereafter each lease year shall begin and end on the first and last day of a month, respectively.

2.2 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect; provided, however, LESSOR shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.

2.3 Surrender of Premises. At termination of this Lease for any reason, LESSEE shall execute, acknowledge, and deliver to LESSOR, within five (5)

days after written LESSOR demand, a valid and recordable quitclaim deed covering all of the Premises. The Premises shall be delivered free and clear of all liens and encumbrances and in a decent, safe, and sanitary condition.

If LESSEE fails or refuses to deliver the required deed, LESSEE acknowledges CITY may prepare and record a notice reciting LESSEE's failure to execute this lease provision, and the notice will be conclusive evidence of the termination of this Lease and all LESSEE's rights to the Premises.

- 2.4 Option Term. LESSEE shall have an option to extend the term of this Lease for two (2) periods of ten (10) years each ("option term or terms"), effective immediately following expiration of the then-current term. Said option(s) shall be exercised, if at all, by LESSEE giving written unconditional notice of exercise of the option to LESSOR at least six (6) months, but not more than one (1) year, prior to expiration of the then-current term. Notwithstanding the foregoing, if LESSEE is in default under this Lease (or if, upon the passage of time and/or the giving of notice, LESSEE would be in default) either on the date the option notice is given or on the date the option term is to commence, the option shall be of no force and effect and this Lease shall expire at the end of the then-current term.

All terms and conditions of this Lease applicable to the regular term shall apply to the option term(s).

SECTION 3: RENT

- 3.1 Time and Place of Payment. All rents required herein shall be paid in lawful money of the United States, without demand, offset or deduction, and made payable to LESSOR and mailed or delivered to LESSOR as set forth in Section 7.18, Notices.

The place of payment may be changed at any time by LESSOR upon thirty (30) days written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by LESSOR. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

- 3.2 Construction Rent. Except as provided in Section 3.4, Payment Procedure, during the construction term, as defined in Section 2.1a., Construction

Term, LESSEE shall pay no rent to LESSOR even if LESSEE is open for business.

3.3 Regular Rent.

- a. Minimum Rent. The annual minimum rent established for the first lease year of the regular term, as defined in Section 2.1b., Regular Term, is One Hundred Fifty-Three Thousand Six Hundred Fifty-One Dollars and Eighty-Four Cents (\$153,651.84), which is Twelve Thousand Eight Hundred Four Dollars and Thirty-Two Cents (\$12,804.32) on a monthly installment basis.

The annual minimum rent established for the second lease year of the regular term is One Hundred Seventy-Three Thousand Six Hundred Fifty-One Dollars and Twenty-Four Cents (\$173,651.24), which is Fourteen Thousand Four Hundred Seventy Dollars and Ninety-Three Cents (\$14,470.93) on a monthly installment basis.

The annual minimum rent established for the third year of the regular term is One Hundred Ninety-Three Thousand Six Hundred Fifty-One Dollars and Twenty Cents (\$193,651.20), which is Sixteen Thousand One Hundred Thirty-Seven Dollars and Sixty Cents (\$16,137.60) on a monthly installment basis.

The annual minimum rent established for the fourth and fifth years of the regular term is Two Hundred Thirteen Thousand Six Hundred Fifty-One Dollars and Twenty-Four Cents (\$213,651.24), which is Seventeen Thousand Eight Hundred Four Dollars and Twenty-Seven Cents (\$17,804.27) on a monthly installment basis.

Notwithstanding the foregoing, the monthly installment of minimum rent shall be reduced by One Thousand Dollars (\$1,000.00) for the first lease year and One Thousand Five Hundred Dollars (\$1,500.00) for each lease year thereafter until such time as LESSEE has recouped one-half ($\frac{1}{2}$) of the contract price or the contract price cap, as the case may be, in connection with the installation of the grease interceptor and basement sewer line connection as set forth in Section 6.4. Construction Responsibilities.

Minimum rents shall be paid in advance in monthly installments on or before the first day of each month.

Provided, however, once the combined total percentage rent payments and credits for Prepaid Percentage Rent (as described below) and monthly installments of minimum rent during any lease year equal or exceed the required annual minimum rent for that year, then for the balance of such year, LESSEE shall discontinue paying monthly installments of the minimum rent and shall continue paying only percentage rents until the beginning of the ensuing lease year, subject to a credit for Prepaid Percentage Rent (as hereinafter provided). Provided further, in the event minimum rents paid plus percentage rents paid or credited exceed the annual minimum rent and also exceed the rent which would have been paid if the percentage rent had been paid on total gross income, the excess over the annual minimum rent shall be credited against the next payable rent as it becomes due. It is the intent of this provision that LESSEE shall pay monthly installments of the annual minimum rent as a guarantee against the percentage rent requirement and that the greater of the two requirements, minimum or percentage, whichever occurs throughout the term, shall prevail on an annual basis.

- b. Minimum Rent Adjustment. Effective at the beginning of the first day of the sixth lease year of this Lease and at the beginning of each five year period thereafter during the term including any option terms, the annual minimum rent shall be seventy percent (70%) of the annual average of actual rents paid or accrued during the previous five lease years (excluding Prepaid Percentage Rent, as hereunder described). Said annual minimum rent shall then be divided by twelve (12) to establish the new monthly minimum rent. It is recognized that such adjustments shall be calculated by LESSOR upon completion of payments due for the preceding rental period in order to determine the amount of the adjustment to be effective on the dates stated herein. Until such calculations are completed, LESSEE shall continue paying minimum monthly rent at the prior rate. Any additional rents determined by the adjustment to be due for the months previously paid at the prior rate shall be paid to LESSOR within thirty (30) days following LESSOR's written notice to LESSEE. In no event shall the adjusted annual minimum rent be less than the annual minimum rent in existence immediately prior to the adjustment date.
- c. Percentage Rents. Percentage rents will be calculated and paid on a quarterly basis during the regular term and will consist of the following percentages of the following items resulting from LESSEE's use of the Premises, public catering areas and the Requa Board Room:

Percentages

Business Activities

Eight Percent (8%)	Of gross income from catering within the House of Hospitality building and grounds, and rental of public catering areas and Regua Board Room.
Seven Percent (7%)	Of gross income from restaurant and all other authorized activities.
Six Percent (6%)	<u>from restaurant and on-premises</u> Of all gross income in excess of \$5 million per lease year. <u>catering</u>
Four Percent (4%)	Of gross income from catering outside of House of Hospitality building and grounds but within Balboa Park.
Two Percent (2%)	Of all credit-card fees
One Percent (1%)	Of all service charges and mandatory gratuities.

LESSOR, in its sole discretion, may approve another percentage rate or flat rate of rent for each other incidental service or operation supplementary to the permitted use(s) set forth under Section 1.2. Uses, hereof as may be approved in writing by LESSOR prior to commencement of such other service(s) or operation(s). Provided, however, any activity conducted on the Premises without prior approval by LESSOR shall be subject to the requirements of Section 3.8, Unauthorized Use Charge, hereof.

Percentage rents during the option terms, except those categories related to credit card fees and service charges, shall be adjusted at the beginning of the first option term to reflect the market, by comparing the percentage rents provided herein with the percentage rents charged under leases for similar full service restaurants in the San Diego region, but taking into consideration in such comparisons tenant improvement allowances, free rent and the like in determining percentage rents under such leases. If LESSOR and LESSEE are unable to agree on the percentage rents applicable to the option terms within thirty (30) days after LESSEE exercises the first option, LESSOR and LESSEE shall refer the matter to appraisal, as follows.

The adjustment shall be determined by a qualified professional independent real estate appraiser selected by mutual consent of LESSOR and LESSEE from the list of appraisers approved by the CITY. LESSOR and LESSEE agree to equally share the cost of the mutually selected appraiser. In the event the parties do not reach agreement as to selection of a mutually acceptable appraiser, then LESSOR and LESSEE shall each select a qualified professional independent real estate appraiser who in turn will select a third qualified professional independent real estate appraiser, which third appraiser will be employed to adjust the percentage rents to be adjusted hereunder. In the event a mutually acceptable third appraiser is not agreed upon between the two selected appraisers within ten (10) days, then the third appraiser will be appointed by the presiding judge of the Superior Court of the State of California, County of San Diego, acting in his or her individual capacity, upon application by either LESSOR or LESSEE with prior notice thereof to the other party. Said third appraiser shall complete the assignment within sixty (60) days of appointment. Each party shall pay the cost of its own selected appraiser, and both LESSOR and LESSEE agree to equally share the cost of the third mutually selected or judge-appointed appraiser. LESSOR and LESSEE agree to accept and be bound by the percentage rents determined by the appraiser selected or appointed to complete the assignment. Any appraiser selected or appointed shall compare the percentage rents provided herein with the percentage rents charged under leases for similar full service restaurants in the San Diego region, but disregarding any consideration given under such leases for tenant improvement allowances, free rent and the like in determining percentage rents hereunder. In the event the appraisal is not completed in time to permit the percentage adjustment to be made upon the commencement of the first option term, LESSEE agrees to continue to pay rent in accordance with the then-existing rates, and the adjustment, when determined, will be retroactive to the beginning of the first option term. Any deficiency shall be paid by LESSEE to LESSOR within sixty (60) days after determination of the new percentage rent. In no event shall the increase in the percentage rents exceed one-half ($\frac{1}{2}$) percentage point for each category. In no event shall the adjustment result in any decrease in any percentage rent.

- 3.4 Payment Procedure. Subject to the provisions of Section 3.3a, Minimum Rent, on the first day of each month of the regular term, LESSEE shall pay LESSOR the minimum monthly rent. On or before the last day of the

calendar month following each quarter in which the gross income subject to rents was earned. LESSEE shall provide LESSOR with a correct statement together with a payment of rent on all applicable gross receipts in a form selected by LESSOR. The statement will be signed by LESSEE or its authorized agent, attesting to the accuracy thereof, which shall be legally binding upon LESSEE. Each statement will indicate or include:

- a. Total gross receipts for the subject quarter, itemized as to business categories for which separate percentage rents are due. A gross receipts breakdown of each business conducted under this Lease must be included when a reported category shows gross income to be from more than one business operation.
- b. The percentage rent due LESSOR, computed and totaled.
- c. The accumulated total of all rents previously paid for the current lease year.
- d. Payment in the greater of the two following amounts:
 - (i) one-fourth of the annual minimum rent or (ii) the total percentage rent due LESSOR computed as described in this section, subject to a credit for the Prepaid Percentage Rent as described below.

Any rents due LESSOR from sublease activities or operations will begin with the earliest of the following dates (whether or not prior approval was given by LESSOR as required by this Lease, and whether or not a separate percentage rent was established by LESSOR):

- (1) Sublease commencement date.
- (2) Physical occupancy date.
- (3) Earliest activity date (i.e., sale of goods, solicitation of business, construction or alterations, etc.).

Notwithstanding the foregoing, LESSEE shall pay to LESSOR the sum of One Hundred Thirty Thousand Dollars (\$130,000.00) as prepaid percentage rent (the "Prepaid Percentage Rent") to be applied as a credit against the first One Hundred Thirty Thousand Dollars (\$130,000.00) of percentage rent as it becomes due hereunder. The Prepaid Percentage Rent shall be payable as follows: (i) One Hundred Thousand Dollars (\$100,000.00) payable upon City Council consent to this Lease and (ii) Five Thousand Dollars (\$5,000.00) per

month for six (6) months commencing on the first (1st) day of the construction term and continuing on the same day of each month thereafter during the construction term.

- 3.5 Gross Income. Except as otherwise provided herein, "gross income" or "gross receipts", as used in this Lease, shall include all income resulting from occupancy of the Premises and use of the public catering areas and Requa Board Room from whatever source derived whether received or to become due. Gross income shall not include federal, state, or municipal taxes collected from the consumer (regardless of whether the amount thereof is stated to the consumer as a separate charge) and paid over periodically by LESSEE to a governmental agency accompanied by a tax return or statement as required by law. Possessory interest taxes or other property taxes shall not be deducted by LESSEE in computing gross income. Gross income shall not include refunds for goods returned for resale on the Premises or refunds of deposits. The amount of such taxes and refunds shall be clearly shown on the books and records of LESSEE. The percentage rent shall be calculated and paid by LESSEE on the basis of said gross income whether the income is received by LESSEE or by any sublessee, permittee or licensee, or their agents, and all gross income received by any sublessee, permittee, licensee, or other party as a result of occupancy of the Premises or the operation thereof shall be regarded as gross income of LESSEE for the purpose of calculating the percentage rent hereunder required to be paid by LESSEE to LESSOR, except as may be otherwise specified by or pursuant to this Lease. In addition, gross income shall not include the following:
- a. Sales to LESSEE's employees of meals, uniforms, T-shirts, hats, etc., for which LESSEE receives no profit but may be reimbursed a reasonable carrying charge.
 - b. The proceeds from any loan refinancing, assignment or subletting of the Premises.
 - c. Complimentary meals and promotional items for which LESSEE receives no payment or any other consideration whatsoever.
 - d. The exchange of merchandise between restaurants and other operations of LESSEE where such exchanges are made solely for the convenient operation of LESSEE's entire business and not for the purpose of consummating a sale which has been made at, in, on, or from the Premises or for the purpose of depriving LESSOR of the benefit of a

sale which otherwise would have been made at, in, on, or from the Premises.

- e. The amount of any credit-card fees; provided, however, such items shall be subject to a separate charge as set forth in Section 3.3c., Percentage Rents.
- f. Discounts, allowances, credits, rebates, refunds, or exchanges when such discounts, etc. are normal or typical to a restaurant operation (or approved by LESSOR).
- g. Sales of trade fixtures, bulk sales of stock-in-trade, or operating equipment after use thereof in the conduct of LESSEE's business in the Premises.
- h. Proceeds of casualty insurance claims.
- i. All sums and credits received in settlement of claims for loss or damage to merchandise.
- j. Sales to charitable or nonprofit organizations at or below cost, events conducted for the benefit of charitable or nonprofit organizations at or below cost, and proceeds from charity auctions which are remitted to charity, all with the prior written approval of LESSOR on a case by case basis.
- k. Service charges and mandatory gratuities; provided, however, such items shall be subject to a separate charge as set forth in Section 3.3c., Percentage Rents.
- l. Voluntary tips to employees.
- m. Exchange charges, defined as follows: those charges LESSEE pays to an outside vendor for services or products provided to individual customers, including but not limited to: flowers, cakes, hats, party favors, party rentals, decorations, photography, rentals or purchases from outside companies of items such as chairs, dance floors, tents, pianos, table linens, audiovisual equipment, special equipment, ice carvings, casino nights, security guards and entertainment, for which LESSEE charges the customer. The mark up by LESSEE, if any, to the customer is not part of the exchange charge and shall be included in gross income.

- n. Any deposit received in connection with events to be held at the Premises, public catering areas or Requa Board Room shall not be deemed part of gross receipts until the event is held or the deposit is forfeited.

3.6 Inspection of Records.

- a. Records. LESSEE shall, at all times during the lease term, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities conducted upon and financial transactions resulting from the use of the Premises. The records shall be supported by source documents such as sales slips, daily cash register tapes, purchase invoices, or other documents as necessary to allow LESSOR to easily determine the total gross income.

Any retail sales or charges will be recorded by means of cash registers or other comparable devices which display to the customer the amount of the transaction and automatically issue a receipt. The registers will be equipped with devices that lock in sales totals and other transaction numbers and sales details that are not resettable. Totals registered shall be read and recorded at the beginning and end of each business day.

In the event of admission charges or rentals, LESSEE shall issue serially numbered tickets for each such admission or rental and shall keep an adequate record of such tickets, as well as a record of unissued tickets.

All retail sales and charges may be recorded by a system other than cash registers or other comparable devices provided such system is first approved in writing by LESSOR.

- b. Financial Statements. Within sixty (60) days after the end of each lease year LESSEE will, at its expense, submit to LESSOR a statement in which the total gross receipts and the corresponding amounts of rents paid LESSOR for the year are classified according to the categories of business established for any percentage rent and for any other business conducted on or from the Premises. Said statement shall be signed by LESSEE or its authorized agent attesting to the accuracy thereof, which shall be legally binding upon LESSEE.

- c. Right to Inspect. All of LESSEE's books of account, records, and supporting documentation, as described under Section 3.6a.. Records. will be kept for at least five (5) years and made available to LESSOR in one location within the County of San Diego. Said books and records shall be maintained separate from all other accounts not relating to the Premises. LESSOR, at its discretion, shall have the right to inspect and audit the business of LESSEE, its agents, sublessees, concessionaires, and licensees operating on and in connection with the Premises as necessary and appropriate for LESSOR to determine the amounts of rent due LESSOR in compliance with the requirements of this Lease.

At LESSOR's request, LESSEE shall promptly provide, at LESSEE's expense, any necessary data to enable LESSOR to fully comply with all requirements of the state or federal government for lease information or reports concerning the Premises. Such data shall include, if required, a detailed breakdown of LESSEE's receipts and expenses.

- d. Audit Cost. The full cost of LESSOR's audit(s) will be borne by LESSOR unless one or both of the following conditions exists, in which case LESSEE hereby agrees to pay LESSOR's cost of audit(s):

(1) The audit(s) reveal an underpayment of more than five percent (5%) or more than \$20,000, whichever is less, between the rent due as reported and paid by LESSEE pursuant to this Lease and rent due as determined by the audit(s) on an annual basis; or

(2) LESSEE has failed to maintain complete and true books, records, accounts, and supporting source documents in strict accordance with this section.

LESSEE shall pay any deficiency determined by the audit(s) plus interest on such amount as defined in Section 3.7, Delinquent Rent and Audit Fees, hereof, within thirty (30) days of notice thereof by LESSOR. LESSOR will credit any overpayment against incoming rents. Any overpayment determined after the end of this Lease will be refunded by LESSOR within thirty (30) days after the audit(s).

- e. Default. Subject to the right of LESSEE to cure as set forth in Section 4.4a.1. Default. LESSEE's failure to keep complete and accurate records by means of double-entry bookkeeping and make them available for LESSOR inspection is, like all other failures to comply

with covenants of this Lease, a breach of this Lease and cause for termination.

- 3.7 Delinquent Rent and Audit Fees. If LESSEE fails to pay the rent within five (5) days after the date the rent is due, LESSEE will pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)], which is hereby mutually agreed by the parties hereto to be appropriate to compensate LESSOR for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account.

In the event LESSOR audit(s), if applicable, discloses that the rent for the audited period(s) has been underpaid in excess of five percent (5%) of the total required rent, then LESSEE shall pay LESSOR the cost of the audit(s) plus ten percent (10%) per year on the amount by which said rent was underpaid, in addition to the unpaid rents as shown to be due LESSOR, as compensation to LESSOR for administrative costs and loss of interest as previously described herein. In the event LESSOR audit(s) discloses that the unpaid rent is less than five percent (5%) of the total rent, and should LESSEE fail to pay said unpaid rent within thirty (30) days after written notice from LESSOR, an additional fee of ten percent (10%) of said unpaid amount shall be added to the unpaid amount to compensate LESSOR for costs and losses due to such nonpayment. LESSEE agrees to pay such amounts and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that LESSOR will incur from LESSEE's late payment. Acceptance of late charges and any portion of the late payment by LESSOR shall in no event constitute a waiver of LESSEE default with respect to late payment, nor prevent LESSOR from exercising any of the other rights and remedies granted in this Lease.

- 3.8 Unauthorized Use Charge. LESSEE shall pay LESSOR twenty percent (20%) of the gross receipts for any service or use that is not permitted by this Lease. This payment is subject to the due date provided in this Lease for rental payments and the provision for delinquent rent. The existence of the twenty percent (20%) charge in this clause and the payment of this charge or any part of it, does not constitute an authorization for a particular service or use, and does not waive any LESSOR rights to terminate a service or use or to default LESSEE for participating in or allowing any unauthorized use of the Premises.

3.9 Additional Consideration to LESSOR. LESSEE and LESSOR agree that in the event of an assignment, in the event of a subletting of the majority portion of the leasehold, or in the event of a refinancing creating an encumbrance against the leasehold after the permanent improvements have been constructed pursuant to the Development Plan as described in Section 6.13. Development Plan. LESSEE shall pay to LESSOR two percent (2%) of (i) the gross amount paid for the leasehold in connection with an approved assignment of the Lease, (ii) any amount paid LESSEE in consideration of a sublease of all or a majority portion of the leasehold, or (iii) the amount of any increased loan or encumbrance against the property over and above the amount of the encumbrance needed to finance the improvements or any replacement or refurbishment of the improvements. The amount upon which the two percent (2%) shall be based shall be the total consideration resulting from the transaction including total cash payments and the market value of noncash consideration, including but not limited to stocks, bonds, deferred payments, secured and unsecured notes, and forbearances regarding claims and judgments. Prior to LESSOR's consent to any assignment, majority subletting, or refinancing, LESSEE shall deliver to LESSOR a written statement of all sums due and owing to LESSOR from LESSEE pursuant to the provisions of this section, together with an acknowledgment from the proposed assignee, sublessee, or refinancing agency as to the amount due LESSOR. The sum due LESSOR shall be payable to LESSOR concurrent with the completion of the transaction, be it an assignment, a sublease or a refinancing upon the same terms and conditions that payment is made to LESSEE. Any assignment, subletting, or refinancing in violation of the terms and conditions of this section shall be void and may constitute a default of this Lease. The provisions of this section shall not apply to:

- a. An assignment or transfer of a beneficial interest in the leasehold to a trust which is revocable by the owner or resulting from devise, bequest, intestate succession, or by operation of law for the benefit of the spouse or descendants (i) of LESSEE (if an individual) or (ii) of LESSEE's principal owner or chief executive officer (if LESSEE is other than an individual);
- b. Any assignment or transfer of a beneficial interest so long as a minimum of ninety percent (90%) of the consideration received is used exclusively for the operation or improvement of the Premises.
- c. Any assignment or transfer of a beneficial interest among the owners of LESSEE or any successor entity to the extent that the original owners of LESSEE retain at least a fifty-one percent (51%) ownership

interest as further defined in Section 4.6. Control by Specified Individuals or Entities.

- d. Any assignment or transfer of a beneficial interest by a limited partner of LESSEE.
- e. Such other assignment for which LESSOR determines that the legal and equitable ownership interests in the leasehold have remained unchanged, such as a change in the legal or fictitious name of the LESSEE without any other change in the equity in beneficial use of, or legal title to, the leasehold as an asset or the income produced thereby.

3.10 Common Area Maintenance Charges.

- a. Common Areas Defined and Described. The term "common areas" for the purposes of this Lease shall mean the foundation, roof, exterior walls, and structural portions of the building and all public rooms, entrances and exits, public elevator, disabled lifts, public rest rooms, fountain, landscaping (including that located in the Upper Dining Terrace, which is part of the Premises), irrigation system, sidewalks, malls, and all other permanent improvements located within the House of Hospitality, including the public catering areas, excluding the building interiors reserved for the exclusive use of the individual lessees of the House of Hospitality, and such other improvements which individual lessees are responsible for maintaining under their respective leases. The common areas include but are not limited to the areas shown on the attached Exhibit "D".
- b. LESSOR's Responsibilities. LESSOR shall be responsible for promptly maintaining and repairing the common areas in a good, decent, safe, healthy and sanitary condition reasonably satisfactory to LESSEE, including without limitation (i) all general maintenance and repairs, pest control, resurfacing, painting, restriping, cleaning, removal of rubbish and debris, sweeping, and janitorial services; (ii) maintenance and repair of electrical, plumbing, heating and air conditioning in the common areas and maintenance and repair of sidewalks, planting and landscaping, irrigation system, foundation, lighting, drainage and other utilities; (iii) directional signs and other markers; (iv) maintenance and repair of all structures, the foundation, roof, exterior walls, elevators (except the freight elevator), public rooms, entrances and exits, disabled lifts, public restrooms; and (v) security as LESSOR deems advisable. Without

limiting for foregoing, public restrooms shall be maintained and serviced by LESSOR during LESSEE's hours of operation, including banquets and special events.

LESSOR shall also be responsible for (i) all real and personal property taxes and assessments related to the common areas, including possessory interest taxes on secured or unsecured tax rolls imposed, assessed or attributed to the common areas; (ii) public liability and property damage insurance on the common areas in such amounts as LESSOR shall determine; (iii) fire and extended coverage insurance on all portions of the House of Hospitality available for the use in common by all lessees and the visiting public; (iv) fees for management and supervision of the common areas and House of Hospitality generally; and (v) all utilities and other costs and expenses in the maintenance, management, and operation of the common areas and House of Hospitality generally.

- c. Nonexclusive Use. LESSOR grants to LESSEE the nonexclusive right in common with the other individual lessees of the House of Hospitality and the general public to use the common areas during the term of this Lease for the uses and purposes designated by LESSOR from time to time. LESSEE's right to use the common areas is subject to the rights of LESSOR, the other individual lessees of the House of Hospitality, and the general public to use the same, and LESSEE shall keep all such areas free and clear of any obstructions. In addition to the foregoing, LESSEE shall have the non-exclusive right to use the locker rooms, lunch/break room and restrooms in the basement of the House of Hospitality building.
- d. Management and Control. LESSOR shall have the exclusive management and control of the common areas; LESSOR shall not have the right to adversely impact ingress and egress to the Premises. LESSOR shall have the right to make changes in the common areas, including, without limitation, changes in or establishing the location of entrances and exits, exhibits, walkways, service areas, and prohibited areas. LESSOR shall have the right to remove any person, authorized or unauthorized, from the common areas or to restrain the use thereof by such persons.
- e. Additional Rent for Maintenance by LESSOR. LESSEE agrees to pay to LESSOR as additional rent a portion as set forth below of the costs and expenses incurred by LESSOR in connection with the maintenance,

management, and operation of the common areas ("common areas charges").

For the first five (5) years of the regular term, LESSEE's share of common area charges is determined to be One Thousand Two Hundred Dollars (\$1,200) per month payable monthly in advance on or before the first day of each month, without demand, offset or deduction. In the event that LESSEE opens for business to the public during the construction term, LESSEE shall commence paying LESSEE's share of the common area charges at that time, prorated for any short month. Effective with the beginning of the sixth year of the regular term, and at the end of every five (5) years thereafter during the total lease term, the common area charges shall be adjusted to reflect increases in the CPI as described below. LESSEE's failure to pay when due any of the charges under this section shall be equivalent to a failure to pay rent.

If in any lease year LESSEE has paid only minimum rent, LESSOR and LESSEE shall meet and discuss reduction in common area charges for the next year; provided, however, LESSOR is not obligated to grant such relief.

- f. Adjustment to Common Area Charges. At the beginning of the sixth year of the regular term and at the end of every five (5) years thereafter during the total lease term, the then common area charges shall be adjusted to reflect increases in the Consumer Price Index (CPI). The index used will be the CPI for "All Urban Consumers" for Los Angeles/Anaheim/Riverside, California. If this index is no longer published, the index for adjustment will be the U.S. Department of Labor's "Comprehensive Official Index" most comparable to the aforesaid index. If a common area charges adjustment is calculated using an index from a different base year than 1982-84, which equaled a base figure of 100 for the CPI, the base figure used will first be converted under a formula supplied by the Bureau of Labor Statistics or its successor.

If the Department of Labor indexes are no longer published, another index generally recognized as authoritative will be substituted by agreement of LESSOR and LESSEE. If the parties cannot agree within sixty (60) days after demand by either party, a substitute index will be selected by the Chief Officer of the Regional Office of the Bureau of Labor Statistics or its successor, notwithstanding continued reference herein to "CPI" in any event.

Regardless of the index publication dates, the effective date of the common area charges adjustment is as specified in this subsection f. Until the common area charges adjustment can be reasonably determined by the index method, LESSEE shall continue to make payments at the existing rate. When the adjustment is determined, the balance of common area charges due at the adjusted rate shall be paid to LESSOR within thirty (30) days. IN NO EVENT SHALL THE ADJUSTED COMMON AREA CHARGES AS ESTABLISHED BY THE CONSUMER PRICE INDEX BE LESS THAN THE COMMON AREA CHARGES IN EXISTENCE IMMEDIATELY PRIOR TO THE ADJUSTMENT DATE.

The common area charges for each period following the adjustment until the next adjustment, as provided herein, shall be determined prior to the date of adjustment by multiplying the common area charges which are effective immediately prior to said adjustment by the "adjustment figure" established as follows:

The "adjustment figure" shall be established by dividing the "current index" by the "base figure", both as defined herein:

The "base figure" for the first such adjustment shall be a three-month average of index figures published by said CPI using the fourth, fifth, and sixth full months preceding the commencement of the regular term of this Lease. If a bimonthly index is used, the third, fifth, and seventh months (or fourth, sixth, and eighth months as the case may be) shall be substituted:

To illustrate, if the regular term began in May, the CPI figures for November (sixth month), December (fifth month), and January (fourth month) preceding May would be averaged to establish the base figure (Example 1).

The "current index" shall be a three-month average of index figures published by said CPI. The three months to be used to establish said average shall be the fourth, fifth, and sixth full months preceding the adjustment date. If a bimonthly index is used, the third, fifth, and seventh months (or fourth, sixth, and eighth months as the case may be) shall be substituted.

The "base figure" for each successive adjustment shall be the "current index" figure used in the last preceding adjustment period (Example 2).

Example 1

Current Index 121

Base Figure 110 = 1.10 (Adjustment Figure)

Common area charges x 1.10 = Adjusted common area charges

Example 2

Current Index 138

Base Figure 121 = 1.14 (Adjustment Figure)

Common area charges x 1.14 = Adjusted common area charges

The adjustment figure is then multiplied by the common area charges from the preceding adjustment period to determine the new common area charges. Using the foregoing examples, if the common area charges are now \$1,200.00, after the first adjustment it will be \$1,320.00 (\$1,200 x 1.10). In the second adjustment it will be \$1,504.80 (\$1,320 x 1.14).

NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL THE ADJUSTMENT TO COMMON AREA CHARGES EXCEED A SEVENTEEN AND ONE-HALF PERCENT (17½%) INCREASE IN ANY FIVE (5) YEAR PERIOD.

SECTION 4: ASSIGNMENT

- 4.1 Time is of Essence; Provisions Binding on Successors. Time is of the essence of all of the terms, covenants, and conditions of this Lease, and, except as otherwise provided herein, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.
- 4.2 Assignment and Subletting. LESSEE shall not assign this Lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other party, except employees, agents and guests of LESSEE, to use or occupy the Premises or any part thereof, without the prior written consent of LESSOR in each instance, which consent shall not be unreasonably withheld. A consent to assignment, subletting, occupation, or use by any other party shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another party. Any such assignment or

subletting without such consent shall be void and shall, at the option of LESSOR, terminate this Lease. This Lease shall not, nor shall any interest therein, be assignable as to the interest of LESSEE by operation of law, without the written consent of LESSOR.

"Assignment" for the purposes of this section shall include any transfer of a majority ownership interest in LESSEE.

Approval of any assignment or sublease shall be conditioned upon the assignee or sublessee agreeing in writing that it will assume the rights and obligations thereby assigned or subleased and that it will keep and perform all covenants, conditions, and provisions of this Lease which are applicable to the rights acquired. LESSOR may require, as a condition to approval of any sublease of the majority portion of the leasehold or any assignment, that LESSEE pay additional consideration to LESSOR, as set forth in Section 3.9, Additional Consideration to LESSOR, hereof (except for the exclusions provided therein), commencing on the effective date of such proposed sublease of the majority portion of the leasehold or assignment. Pursuant to City Charter Section 225, LESSEE acknowledges that the City Manager must review and approve every person or entity which will have an interest in this Lease as a sublessee or assignee, and that the City Manager's approval will not be unreasonably withheld, provided all such persons and entities are of good character and reputation in the community.

- 4.3 Encumbrance. Subject to prior consent by LESSOR, which shall not be unreasonably withheld, LESSEE may encumber this Lease, its leasehold estate, and its improvements thereon by deed of trust, mortgage, chattel mortgage, or other security instrument to assure the payment of a promissory note or notes of LESSEE, upon the express condition that the proceeds of such loan or loans be devoted exclusively to the purpose of developing the Premises in accordance with Section 6.13, Development Plan, hereof. However, a reasonable portion of the loan proceeds may be disbursed for payment of incidental costs of construction, including but not limited to the following: off-site improvements for service of the Premises; on-site improvements; escrow charges; premiums for hazard insurance or other insurance or bonds required by LESSOR; title insurance premiums; reasonable loan costs such as discounts, interest, and commissions; and architectural, engineering, and attorneys' fees and other normal expenses incidental to such construction.

Any subsequent encumbrances on the Premises or on any permanent improvements thereon must first have the approval in writing of LESSOR.

Such subsequent encumbrances shall also be for the exclusive purpose of development of the Premises and can include incidental costs as described above. Provided, however, after the Premises are fully developed in accordance with said Development Plan to the satisfaction of the City Manager, proceeds from refinancing or from such subsequent encumbrances may be used for purposes other than development of the Premises so long as LESSEE pays additional consideration to LESSOR as set forth in Section 3.9, Additional Consideration to LESSOR, hereof (except for the exclusions provided therein), and further that LESSEE understands and specifically agrees that LESSOR shall have the sole and absolute discretion to approve, disapprove, or condition any such proposed subsequent encumbrance.

In the event any such approved deed of trust or mortgage or other security-type instrument should at any time be in default and be foreclosed or transferred in lieu of foreclosure, LESSOR will accept the approved mortgagee or beneficiary thereof as its new tenant under this Lease with all the rights, privileges, and duties granted and imposed in this Lease.

Upon prior written approval by LESSOR, said mortgagee or beneficiary may assign this Lease to its nominee, if nominee is a reputable, qualified, and financially responsible person or entity in the opinion of LESSOR. Any deed of trust, mortgage, or other security instrument shall be subject to all of the terms, covenants, and conditions of this Lease and shall not be deemed to amend or alter any of the terms, covenants, or conditions hereof.

Pursuant to City Charter Section 225, LESSEE acknowledges that the City Manager must review and approve every person or entity which will have a financial interest in this Lease and that the City Manager's approval will not be unreasonably withheld, provided all such persons and entities are of good character and reputation in the community.

4.4 Defaults and Remedies.

a. Default. In the event that:

- (1) LESSEE shall default in the performance of any covenant or condition required by this Lease to be performed by LESSEE and shall fail to cure said default within thirty (30) days following written notice thereof from LESSOR; or if any such default is not curable within thirty (30) days, and LESSEE shall fail to commence

to cure the default(s) within said thirty-day period and diligently pursue such cure to completion; or

- (2) LESSEE shall voluntarily file or have involuntarily filed against it any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors;

then LESSOR may, at its option, without further notice or demand upon LESSEE or upon any person claiming rights through LESSEE, immediately terminate this Lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the Premises or to possession thereof; and LESSOR may enter and take possession of the Premises. Provided, however, in the event that any default described in Section 4.4a.(1) hereinabove is not curable within thirty (30) days after notice to LESSEE, LESSOR shall not terminate this Lease pursuant to the default if LESSEE immediately commences to cure the default and diligently pursues such cure to completion.

In the event there is a deed of trust or mortgage on the leasehold interest, LESSOR shall give the mortgagee or beneficiary written notice of the default(s) complained of, and the same mortgagee or beneficiary shall have thirty (30) days from such notice to cure the default(s) or, if any such default is not curable within thirty (30) days, to commence to cure the default(s) and diligently pursue such cure to completion. The thirty-day period may be extended during such time as mortgagee or beneficiary pursues said cure with reasonable diligence.

- b. Remedies of Lender. Should the default(s) be noncurable by LESSEE, then any lender holding a beneficial interest in the leasehold, whose qualifications as an assignee have been approved by LESSOR, shall have the absolute right to substitute itself to the estate of LESSEE hereunder and to commence performance of this Lease. If such mortgagee or beneficiary shall give notice in writing of its election to so substitute itself within the thirty-day period after receiving written notice by LESSOR of the default, and the default, if curable, is cured by such mortgagee or beneficiary, then this Lease shall not terminate pursuant to the default. In that event, LESSOR expressly consents to the substitution and authorizes the mortgagee or

beneficiary to perform under this Lease with all the rights, privileges, and obligations of LESSEE, subject to cure of the default, if possible, by mortgagee or beneficiary. LESSEE expressly agrees to assign all its interest in and to its leasehold estate to mortgagee or beneficiary in that event.

c. Abandonment by LESSEE. Even though LESSEE has breached the Lease and abandoned the property, this Lease shall continue in effect for so long as LESSOR does not terminate this Lease, and LESSOR may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.

d. Waiver. Any LESSOR waiver of a default must be in writing and executed by LESSOR; any such waiver is not a waiver of any other default. Any LESSOR delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. LESSOR's acceptance of any rents is not a waiver of any default preceding the rent payment. LESSOR and LESSEE specifically agree that the property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the CITY and that any failure by LESSOR to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but LESSOR shall at all times have the legal right to require the cure of any default when and as such defaults are discovered or when and as the CITY Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the CITY Council by the City Manager or by any concerned citizen.

4.5 Eminent Domain. If all or part of the Premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of LESSOR and LESSEE (or beneficiary or mortgagee) will be as follows:

a. In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

b. In the event of a partial taking, if, in the opinion of LESSOR, the remaining part of the Premises is unsuitable for the Lease operation,

this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

- c. In the event of a partial taking, if, in the opinion of LESSOR, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. The minimum rent shall be equitably reduced to reflect the portion of the Premises taken.
- d. Award. All monies awarded in any such taking shall belong to LESSOR, whether such taking results in diminution in value of the leasehold or the fee or both; provided, however, LESSEE shall be entitled to any award attributable to the taking of, or damages to, LESSEE's then-remaining leasehold interest in installations or improvements of LESSEE. LESSOR shall have no liability to LESSEE for any award not provided by the condemning authority.
- e. Transfer. LESSOR has the right to transfer LESSOR's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have in the fair market value of any improvements placed by it on the Premises in accordance with this Lease.
- f. No Inverse Condemnation. LESSEE acknowledges the exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.

- 4.6 Control by Specified Individuals or Entities. The corporation named herein as LESSEE (or a successor entity) shall remain owned and controlled by David and/or Lesley Cohn at least to the extent of fifty-one percent (51%) of the ownership, who shall actively administer and supervise the business enterprise operated on the Premises. In the event both David and Lesley Cohn are incapacitated, then LESSEE shall select an experienced manager acceptable to LESSOR to so administer and supervise the lease operations. LESSEE agrees to give LESSOR written notice of any transfers of ownership. Sale or transfer of ownership by the above-named persons in excess of twenty percent (20%) of LESSEE or a successor entity shall be considered an assignment of interest and shall be treated in accordance with the

provisions of Section 4.2, Assignment and Subletting, and Section 3.9, Additional Consideration to Lessor, hereof; provided, however, that the interest of any owner may be assigned to his or her spouse, any trust which is revocable by the owner or direct lineal heirs upon notification in writing to LESSOR. Provided further that David and Lesley Cohn or their successors shall not effectuate a transfer of this Lease by selling off less than twenty percent (20%) in any one lease year and the balance up to and exceeding twenty percent (20%) over the succeeding lease year or years in order to avoid payment of additional consideration to the LESSOR, which is described in Section 3.9, Additional Consideration to LESSOR. LESSEE acknowledges that, pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have an interest in this Lease as an assignee and that the City Manager's approval will not be unreasonably withheld, provided all such persons and entities are of good character and reputation in the community.

SECTION 5: INSURANCE RISKS/SECURITY

5.1 Indemnity. LESSEE agrees to defend, indemnify, protect, and hold CITY and LESSOR, their agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with LESSEE's development or operation of the leasehold or LESSEE's work and operations to be performed under this Lease, and all expenses of investigating and defending against same; provided, however, that LESSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY and/or LESSOR, their agents, officers, or employees.

5.2 Insurance.

a. LESSEE shall take out and maintain at all times during the term of this Lease the following insurance at its sole expense:

- (1) Public liability and property damage insurance in the amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failures to act by CITY, LESSOR or LESSEE or

by authorized representatives of CITY, LESSOR or LESSEE on or in connection with the use or operation of the Premises.

(2) Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover 100 percent of the replacement cost. Any proceeds from a loss shall be payable jointly to LESSOR and LESSEE. The proceeds shall be placed in a trust fund to be reinvested in rebuilding or repairing the damaged property. If there is a mortgage or trust deed on the leasehold in accordance with Section 4.3, Encumbrance, hereof, the proceeds may be paid to the approved mortgagee or beneficiary so long as adequate provision reasonably satisfactory to LESSOR has been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.

(3) Umbrella policy insuring against losses described in section 5.2a.1 in the amount of not less than Four Million Dollars (\$4,000,000.00).

b. LESSEE's responsibility to maintain said insurance also includes the following:

(1) Additional Insured. All insurance policies will name CITY and LESSOR as additional insureds, protect CITY and LESSOR against any legal costs in defending claims, and will not terminate without sixty (60) days' prior written notice to LESSOR. All insurance companies must be satisfactory to LESSOR and licensed to do business in California. All policies will be in effect on or before the first day of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with LESSOR during the entire term of the Lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Lease.

(2) Modification. In the event of a change of circumstances in connection with the Premises, LESSOR, at its discretion, may require the commercially reasonable revision of amounts and coverages at any time during the term by giving LESSEE sixty (60) days' prior written notice, provided such coverages are reasonably

available in the marketplace at commercially reasonable rates. LESSOR's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. LESSEE also agrees to obtain any additional insurance required by LESSOR for new improvements, in order to meet the requirements of this Lease.

(3) Accident Reports. LESSEE shall report to LESSOR any accident causing more than Ten Thousand Dollars (\$10,000.00) worth of property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.

(4) Failure to Comply. If LESSEE fails or refuses to take out and maintain the required insurance or fails to provide the proof of coverage, LESSOR has the right to obtain the insurance. LESSEE shall reimburse LESSOR for the premiums paid with interest at the maximum allowable legal rate then in effect in California. LESSOR shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by LESSOR.

Notwithstanding the preceding provisions of this subsection (4), if LESSEE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, LESSOR has the right to declare this Lease in default without further notice to LESSEE, and LESSOR shall be entitled to exercise all legal remedies in the event of such default.

5.3 Waste, Damage, or Destruction. LESSEE agrees to give notice to LESSOR of any fire or other damage that may occur on the Premises within ten (10) days of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner satisfactory to LESSOR. If the Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, LESSEE agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage; or, at

LESSOR's option, LESSEE agrees to clear and remove from the Premises all debris resulting from said damage and rebuild the Premises in accordance with plans and specifications previously submitted to LESSOR and approved in writing in order to replace in kind and scope the operation which existed prior to such damage, using for either purpose the insurance proceeds as set forth in Section 5.2, Insurance, hereof. LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the Premises shall be commenced by LESSEE within thirty (30) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter. The minimum annual rent requirement for such period or periods that said Premises are untenable by reason of such damage shall be based on the extent to which the destruction interferes with LESSEE's use of the Premises.

SECTION 6: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 6.1 Acceptance of Premises. LESSEE represents and warrants that it has independently inspected the Premises to satisfy itself of the condition of the Premises. In reliance thereon, LESSEE accepts the Premises in its "as-is" condition. LESSEE releases LESSOR and the CITY from responsibility for any apparent defects in the Premises. LESSOR is not aware of any material adverse conditions affecting the Premises.
- 6.2 Entry and Inspection. LESSOR reserves and shall always have the right, but not the obligation, to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Premises, or to inspect the operations conducted thereon. In the event that such entry or inspection by LESSOR discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, LESSOR shall have the right, after ten (10) days written notice to LESSEE, to have any necessary maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs incurred by LESSOR in having such necessary maintenance work done, in order to keep said Premises in a decent, safe, healthy, and sanitary condition. Further, if at any time LESSOR determines that the Premises are not in a decent, safe, healthy, and sanitary condition, LESSOR may at its sole option, without additional notice, require LESSEE to file with LESSOR a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. Said bond shall be in an amount adequate in the opinion of LESSOR to correct the unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on LESSOR or increase obligations elsewhere in this Lease imposed on LESSOR.

- 6.3 Maintenance. Except as otherwise specifically provided herein, LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the Premises throughout the term. LESSEE will perform all such repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to LESSOR and in compliance with all applicable laws. All applicable codes and standards of CITY, state, and federal agencies shall be observed in all maintenance, repairs, and replacements on the Premises. The freight elevator located in the Premises shall be maintained by LESSEE, and shall be used exclusively by LESSEE.

Whenever LESSEE uses the public catering areas or Requa Board Room as described in Section 1.2, Uses, hereof, LESSEE assumes full responsibility for their care and agrees to return said areas to LESSOR promptly after each use and in a clean and sightly condition, normal wear and tear excepted, including any equipment LESSEE may have obtained from LESSOR. Should damage occur to said areas or to the equipment therein during LESSEE's use, LESSEE shall promptly repair said damage at its expense. Should the damage not be repaired within seventy-two (72) hours after notice to LESSEE from LESSOR, LESSOR may make the necessary repairs. LESSOR shall give notice thereof to LESSEE, stating the cost of the repairs, and the cost shall be added to LESSEE's rent and shall be payable on the first (1st) day of the month following LESSOR's notice to LESSEE. Maintenance of the public catering areas not due to damage from LESSEE's use shall be LESSOR's responsibility.

- 6.4 Construction Responsibilities. Except as otherwise provided herein, LESSEE understands and agrees that it is responsible for designing and constructing the restaurant tenant improvements at its sole cost in the areas shown on the attached Exhibit "A". LESSEE shall also pay for any alterations to the base building to accommodate its tenant improvements. LESSEE shall also pay for the cost of repairing any damage to the base building resulting from installation of its tenant improvements. LESSEE shall be responsible for installation of the grease interceptor and connections to basement sewer lines, but shall be reimbursed for the contract price for such installation up to a maximum of One Hundred Thousand Dollars (\$100,000.00) as follows: (i) one-half ($\frac{1}{2}$) of said amount shall be reimbursed to LESSEE as a credit against minimum rent as set forth in Section 3.3a, Minimum Rent; and (ii) one-half ($\frac{1}{2}$) of said amount shall constitute additional Prepaid Percentage Rent as set forth in Section 3.4, Payment Procedure, and shall be treated as Prepaid Percentage Rent for all purposes under this Lease. Prior to commencement of the

installation of grease interceptor and basement sewer lines. LESSEE shall obtain a bid which shall be submitted to LESSOR for approval. All restaurant tenant improvements must be consistent with the House of Hospitality Historic Reconstruction plans and specifications (Drawing 27359-D, Sheets 1-226, dated January 31, 1995, on file in the City Development Services Department) and approved by the Historical Site Board. Approval of the tenant improvements by the Historical Site Board shall not be required if LESSEE's architect provides written notice to LESSOR that such approval is not required. LESSEE agrees to keep LESSOR informed of its progress in fulfilling construction and other responsibilities on an ongoing basis.

Upon release of the Premises to LESSEE to commence construction, LESSOR shall reasonably ensure that the work comprising the tenant improvements can go forward without substantial delay, interference, or hindrance by the LESSOR's agents, employees, contractors, including any subcontractors, jobbers, etc. (excluding any CITY agent or employee responsible for issuing permits or approvals required for such construction).

- 6.5 Improvements/Alterations. All improvements, structures and installations constructed or placed in the Premises, and all alterations to the Premises, must conform to the historic design and character of the House of Hospitality building and to LESSOR's preservation manual (or like manual), or must otherwise meet LESSOR's approval. No improvements, structures, or installations shall be constructed on the Premises, and the Premises may not be altered by LESSEE, without prior written approval by LESSOR. Further, LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the Premises without prior written approval by LESSOR. Notwithstanding the foregoing, no single improvement, structure, installation or alteration valued at less than Fifty Thousand Dollars (\$50,000) in or to those portions of the Premises designated as "kitchen" and "basement" on the attached Exhibit "A" shall, after the initial construction term, be subject to LESSOR's prior written approval, provided such improvement, structure, installation or alteration does not affect any other portion of the Premises. This provision shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn improvements. Neither LESSOR nor CITY shall be obligated by this Lease to make or assume any expense for any improvements or alterations, other than as stated in Section 6.4, Construction Responsibilities. For any improvement, structure, installation or alteration requiring LESSOR's prior written approval.

LESSEE shall submit its request to the chairperson of LESSOR's Facilities and Tenant Relations Committee at LESSOR's address for notice as set forth in Section 7.19. Notices, along with such drawings/plans and other information as is reasonably necessary for LESSOR to evaluate LESSEE's request. Within twenty-one (21) calendar days of LESSEE's request, LESSOR shall deliver to LESSEE's address for notice as set forth in Section 7.19, Notices, its approval or disapproval of LESSEE's request. If LESSOR disapproves LESSEE's request, LESSOR shall specify the reasons for doing so. Without in any way affecting LESSOR's obligation to respond with its approval or disapproval to LESSEE's request within twenty-one (21) calendar days, if LESSOR does not respond within twenty-one (21) calendar days, LESSOR is deemed to have approved LESSEE's request. LESSOR's Facilities and Tenant Relations Committee shall adopt a policy which will facilitate a prompt reply to any LESSEE request which does not affect the historic design and character of the House of Hospitality building.

6.6 Utilities. LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the Premises.

6.7 Construction Bond. Whenever there is any construction to be performed on the Premises by LESSEE, LESSEE shall deposit with LESSOR, prior to commencement of said construction, a faithful performance bond in the amount of 100 percent of the estimated construction cost of the work to be performed. In the event LESSOR's consent is not required for any construction to be performed to the kitchen or basement, in lieu of a performance bond, LESSEE shall have the right to provide LESSOR with proof that it has the financial ability to complete such construction. LESSOR shall have the right to approve such financial information, which approval shall not be unreasonably withheld. The bond may be in cash or may be a corporate surety bond or other security satisfactory to LESSOR. This requirement shall be deemed satisfied if LESSEE has obtained a construction bond through a contractor so long as CITY and LESSOR, are named as additional insureds. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by LESSOR or, at the option of LESSOR, that the uncompleted construction shall be removed and the Premises restored to a condition satisfactory to LESSOR. The bond or cash will be held in trust by LESSOR for the purpose specified above or, at LESSOR's option, it may be placed in an escrow or other trust approved by LESSOR. No construction shall be commenced until ten (10) days after LESSOR has received notice from LESSEE stating the date the construction is to commence so that LESSOR can post and record an appropriate notice of responsibility.

6.8 Liens. LESSEE shall at all times save CITY and LESSOR free and harmless and indemnify CITY and LESSOR against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the Premises and the costs of defending against such claims, including reasonable attorneys' fees.

If improvements, alterations, or repairs are made to the Premises by LESSEE or by any party other than LESSOR, and a lien or notice of lien is filed, LESSEE shall within five (5) days of such filing either:

- a. take all actions necessary to record a valid release of lien, or
- b. file with LESSOR a bond, cash, or other security acceptable to LESSOR sufficient to pay in full all claims of all persons seeking relief under the lien.

6.9 Taxes. LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the Premises, including any licenses or permits. LESSEE recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees, and assessments will not reduce any rent due LESSOR.

6.10 Signs. LESSOR and LESSEE shall execute a signage plan in the form and content set forth on Exhibit "E". LESSEE agrees not to subsequently erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising without the prior written consent of LESSOR. Further, LESSEE shall have the right to place decorative signs in the interior and at the entrance to the Premises with LESSOR's prior written consent. If any such unauthorized item is found on the Premises, LESSEE agrees to remove the item at its expense within 24 hours notice thereof by LESSOR, or LESSOR may thereupon remove the item at LESSEE's cost. LESSEE acknowledges that all signage in Balboa Park, including the Premises, is subject to CITY'S prior approval.

6.11 Ownership of Improvements and Personal Property.

- a. Any and all improvements, trade fixtures other than Tenant's Fixtures, structures, and installations or additions to the Premises now existing or constructed on the Premises by LESSEE shall at Lease expiration or termination be deemed to be part of the Premises and shall become, at LESSOR's option, LESSOR's property free of all liens and claims, except as otherwise provided in this Lease.
- b. If LESSOR elects not to assume ownership of all or any improvements, trade fixtures other than Tenant's Fixtures, structures, and installations, LESSOR shall so notify LESSEE thirty (30) days prior to termination or one hundred eighty (180) days prior to expiration, and LESSEE shall remove all such improvements, structures and installations as directed by LESSOR at LESSEE's sole cost on or before Lease expiration or termination. If LESSEE fails to remove any improvements, structures, and installations as directed, LESSEE agrees to pay LESSOR the full cost of any removal.
- c. LESSEE-owned machines, appliances, equipment (other than trade fixtures), Tenant's Fixtures and other items of personal property shall be removed by LESSEE by the date of the expiration or termination of this Lease. Any of said items which LESSEE fails to remove will be considered abandoned and become LESSOR's property free of all claims and liens, or LESSOR may, at its option, remove said items at LESSEE's expense.
- d. If any removal of such personal property by LESSEE results in damage to the remaining improvements on the Premises, LESSEE agrees to repair all such damage.
- e. Any necessary removal by either LESSOR or LESSEE which takes place beyond expiration or termination of this Lease shall require LESSEE to pay rent to LESSOR at the rate in effect immediately prior to expiration or termination.
- f. Notwithstanding any of the foregoing, in the event LESSEE desires to dispose of any of its personal property used in the operation of the Premises upon expiration or termination of this Lease, then LESSOR shall have the first right to acquire or purchase said personal property, subject to the provisions of Section 2.1, Total Term.

- 6.12 Unavoidable Delay. If the performance of any act required of LESSOR, CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rent as required pursuant to this Lease. In the event LESSEE, LESSOR or CITY claims the existence of such a delay, the party claiming the delay shall notify the other parties in writing of such fact within ten (10) days after the beginning of any such claimed delay.
- 6.13 Development Plan. LESSEE agrees to develop the Premises in accordance with the General Development Plan approved by the City Manager and filed in the Office of the CITY Clerk, which plan is hereby incorporated by this reference. The general contents and provisions of the Development Plan are described in Section 9.2 hereof. LESSEE acknowledges the City Manager or his designee shall have the authority to authorize changes to the plan provided that the basic concept may not be modified without CITY Council approval, and a document evidencing any approved changes shall be filed in the Office of the CITY Clerk. Subject to the right of LESSEE to cure as set forth in Section 4.4a.1, Default, failure by LESSEE to comply with the General Development Plan shall constitute a material default and subject this Lease to termination by LESSOR. LESSEE acknowledges the City Manager, in his sole discretion, may approve an extension to the development schedule of up to one (1) year without further CITY Council approval.
- 6.14 Hazardous/Toxic Waste. Except for any grease trap(s) approved by the County Health Department, LESSEE will not allow, without prior written LESSOR approval, the installation of additional underground storage tanks or release of hazardous substances in, on, under, or from the Premises. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the City Clerk's Office as City Clerk Document 769704 and by this reference is incorporated herein.

In the event of any release of a hazardous substance by LESSEE, its employees or agents, during the term of this Lease, LESSEE shall be responsible for all costs of remediation and removal of such substances in accordance with all applicable rules and regulations of governmental authorities.

LESSEE agrees to assume the defense of, indemnify, and hold LESSOR and CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE's operations on the Premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

If LESSEE knows or has reasonable cause to believe that any hazardous substance has been released on or beneath the Premises, LESSEE shall give written notice to LESSOR within ten (10) days of receipt of such knowledge or cause for belief. Provided however, if LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE shall notify LESSOR immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. LESSEE will notify LESSOR immediately of any notice of violation received or initiation of environmental actions or private suits relative to the Premises. In addition, LESSEE and LESSEE's sublessees shall not utilize or sell any hazardous substance on the property without the prior written consent of LESSOR.

At any time within the twelve (12) months before the expiration or earlier termination of this Lease, LESSEE, at LESSOR's sole option, shall cause an environmental assessment of the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. Said environmental assessment shall be obtained at the sole cost and expense of LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the Premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then said environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes and estimates of the cost of such remediation or removal. LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is

achieved and shall be solely responsible for all costs and expenses incurred.

SECTION 7: GENERAL PROVISIONS

- 7.1 Compliance with Law. Except as otherwise set forth in this Lease, LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE's sole cost and expense. In addition, LESSEE shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.
- 7.2 CITY Approval. The approval or consent of CITY, wherever required in this Lease, shall mean the written approval or consent of the City Manager unless otherwise specified, without need for further resolution by the CITY Council.
- 7.3 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
- 7.4 Compliance with CITY'S Equal Opportunity Contracting Program.
- a. Equal Opportunity Contracting. LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. LESSEE and all of its subcontractors are individually responsible to abide by its contents.
- LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

LESSEE submitted and CITY acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that LESSEE will take to achieve the CITY'S commitment to equal employment opportunities.

LESSEE agrees to insert the foregoing provisions in all subcontracts for any work covered by this Lease so that such provisions will be binding upon each subcontractor. LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the CITY'S Equal Opportunity Contracting Program staff.

- b. Local Business and Employment. LESSEE acknowledges that the CITY seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LESSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Lease from local residents and firms as opportunities occur. LESSEE agrees to hire qualified local residents and firms whenever feasible.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

- 7.5 CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements, or leases with consultants, vendors, or LESSEES shall include a condition that the contract, agreement, or Lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if the contractor or LESSEE knowingly employs an individual who, within the twelve months immediately preceding such employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the CITY Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of the CITY Council.
- 7.6 Drug-free Workplace. LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988 by adopting and

enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the leasehold and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) LESSEE's policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employees' assistance programs.
 - (4) The penalties that may be imposed upon employees for drug abuse violations.
- c. LESSEE shall include in each sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and sublessees shall be individually responsible for their own drug-free workplace programs.

7.7 Plastic Food Containers.

- a. LESSEE shall not, after the effective date of this Lease, provide to its customers any prepared food in polystyrene foam food packaging, nor shall LESSEE obtain or keep any polystyrene foam food packaging of a type, design, and condition suited for providing prepared food to its customers for consumption off the Premises.
- b. LESSEE's food packaging for prepared food to be consumed on the Premises or for takeout food shall be biodegradable, and LESSEE shall provide upon demand evidence in the form of paid invoices to indicate the purchase of biodegradable containers in amounts sufficient to indicate compliance with this section. LESSEE's food packaging for prepared food to be consumed off the Premises shall be biodegradable unless LESSEE demonstrates to the satisfaction of LESSOR that biodegradable food packaging materials are not available for purchase

in the quantities required by LESSEE. In the event that biodegradable food packaging materials are not available for purchase in the quantities required by LESSEE, LESSEE may limit its use of such packaging to the amount actually available.

c. For purposes of this Lease, the following definitions are applicable:

- (1) "Prepared food" means foods or beverages which are prepared on the Premises by cooking, chopping, slicing, mixing, freezing or squeezing, and which require no further preparation to be consumed.
- (2) "Food packaging" means all bags, sacks, wrapping, containers, bowls, plates, trays, cartons, cups, straws and lids which are not intended for reuse, on or in which any foods or beverages are placed or packaged on the Premises.
- (3) "Takeout food" means prepared foods or beverages requiring no further preparation to be consumed and which are purchased in order to be consumed off the Premises.

7.8 Disabled Access Compliance. LESSEE agrees to comply with the California Government Code, Sections 11135-11139.5; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:

- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment.
- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE.
- c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.

- d. Where required by law, LESSEE shall comply with CITY'S disabled access requirements by bringing up to code and making accessible any areas of the Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of LESSEE.
- e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own ADA employment programs.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.

- 7.9 Partial Invalidity. If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
- 7.10 Legal Fees. In the event of any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.
- 7.11 Number and Gender. Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
- 7.12 Captions. The Lease Outline and section headings shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the sections and pages of this Lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this Lease.
- 7.13 Entire Understanding. This Lease and the exhibits hereto, incorporated herein by reference, contain the entire understanding of the parties. LESSEE, by signing this agreement, agrees that there is no other written or oral understanding between the parties with respect to the Premises. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each of the parties in this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease.

The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or alteration of this Lease will be valid unless it is in writing and signed by all parties.

- 7.14 Corporate Authority. Each individual executing this Lease on behalf of LESSEE represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of the corporation or in accordance with the bylaws of the corporation, and that this Lease is binding upon the corporation in accordance with its terms, and that LESSEE is a duly qualified corporation and all steps have been taken prior to the date hereof to qualify LESSEE to do business in the state where the Premises are situated.
- 7.15 Standard of Employees. LESSEE and its employees shall at all times conduct themselves and the operations on the Premises in a creditable manner.
- 7.16 LESSOR's Compliance. So long as LESSEE is not in default under this Lease, LESSOR agrees that it will not take any actions which would cause a termination of the Master Lease.
- 7.17 Approvals and Consents. Whenever a party's consent or approval is required under this Lease, such consent or approval shall not be unreasonably withheld or delayed.
- 7.18 Modification of Lease. In the event there is significant future expansion of food service in Balboa Park, LESSOR agrees to review the terms and conditions of this Lease, including without limitation the use clause, rent and common area charges, taking into consideration the impact on LESSEE's business; provided, however, LESSOR shall not be obligated to agree to any modifications to this Lease.
- 7.19 Notices
- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at the Premises or at:

Hard Work Too, Inc.
Attention: David and Lesley Cohn
656 Fifth Avenue, Suite R
San Diego, CA 92101

and to LESSOR as follows:

House of Hospitality Association, Inc.
Attention: Manager
1549 El Prado
San Diego, CA 92101

or to any mortgagee, trustee, or beneficiary, as applicable, at such appropriate address designated in writing by the respective party.

- b. Any party entitled or required to receive notice under this Lease may by like notice designate a different address to which notices shall be sent.

SECTION 8: SIGNATURES

8.1 Signature Page.

IN WITNESS WHEREOF, this Lease is executed by LESSOR, acting by and through its lawfully authorized officers, and by LESSEE, acting by and through its lawfully authorized officers.

LESSOR: House of Hospitality
Association, Inc.
a California non profit
corporation

Date April 1, 1999

By Martin H. Steinley
PRESIDENT

LESSEE: Hard Work Too, Inc.
a California corporation

Date APRIL 1, 1999

By David L. Loh
PRESIDENT

Date _____

By _____

SECTION 9: EXHIBITS

9.1 Exhibits "A", "B", "C", "D" and "E".

- (a) Exhibit "A": The Premises [to include basement]
- (b) Exhibit "B": Public Catering Areas
- (c) Exhibit "C": Removable Trade Fixtures ("Tenant's Fixtures")
- (d) Exhibit "D": Common Areas
- (e) Exhibit "E": Signage Plan

9.2 General Development Plan.

The General Development Plan consists of:

- a. Development Schedule
- b. Estimated Construction Costs
- c. Financial Plan
- d. Floor Plans
- e. Tenant Improvement Plans
- f. Others as applicable

and is filed in the Office of the City Clerk referenced in this Lease.

9.3 Corporate Name.

Hard Work Too, Inc.
CORPORATE NAME

I, DAVID COHN, certify that I am the
PRESIDENT of the corporation named in the attached
agreement; that DAVID COHN, who signed this agreement on behalf of
the corporation, was then PRESIDENT of said corporation; that said
agreement was duly signed for and on behalf of said corporation by authority of its
governing body, pursuant to a resolution duly adopted by its Board of Directors on
MARCH 31, 19 99, and is within the scope of its corporate powers;
and that set out below are the names of the officers and directors of said
corporation.

By David Cohn

CORPORATE SEAL

Name DAVID COHN
Title PRESIDENT
Name LESLEY COHN
Title SECRETARY

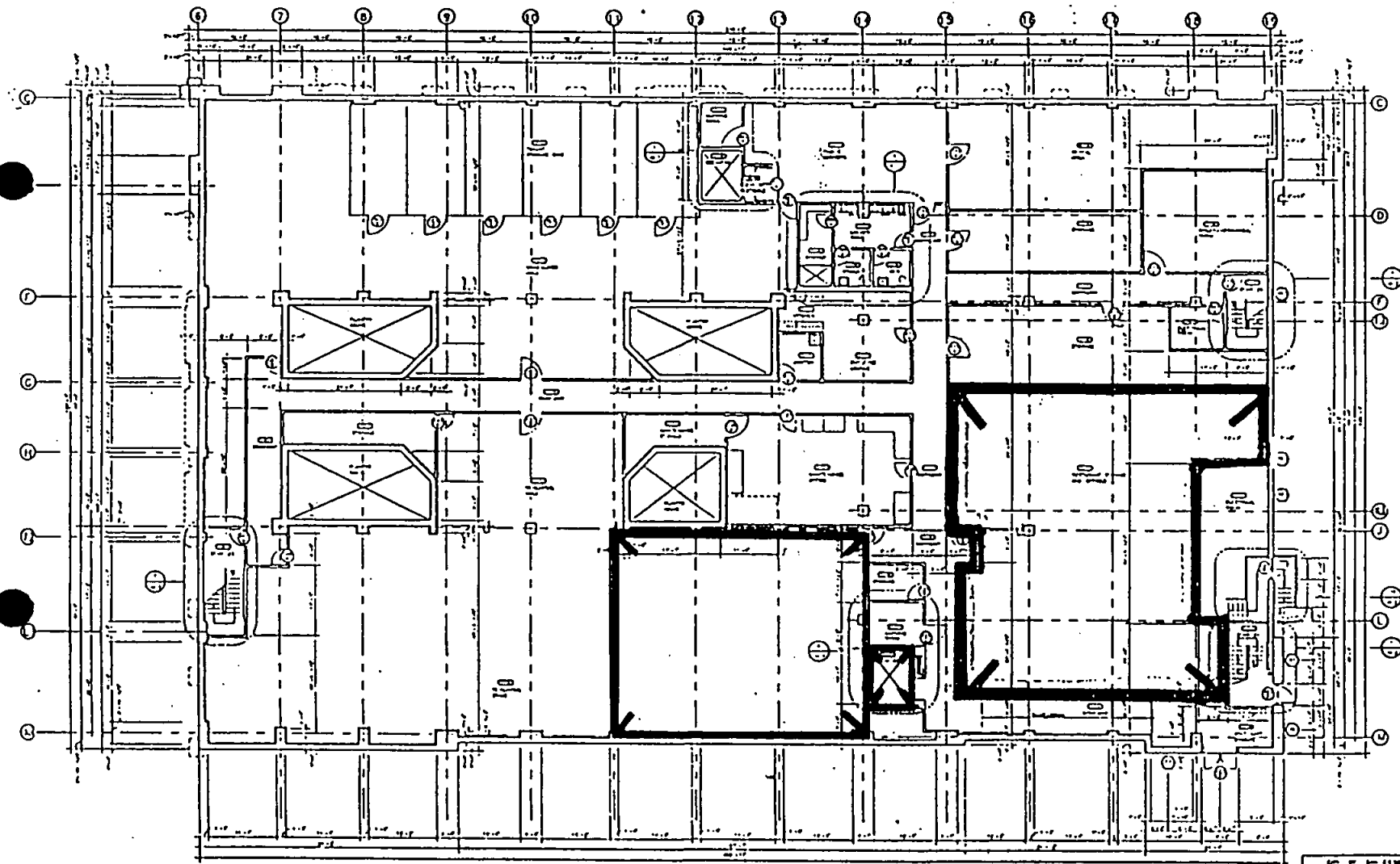
9.4 Schedule of Days and Hours of Operation.

Monday through Sunday 11:30 a.m. - 8:30 p.m.

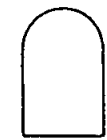
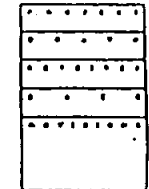
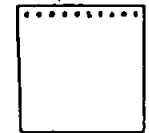
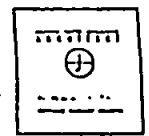
On Sunday only brunch and dinner will be served.

The restaurant will be closed on certain holidays in LESSEE's discretion.

LESSEE shall have the right to be open additional hours, and shall have the right to be closed on Mondays.

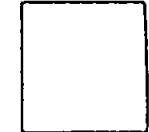
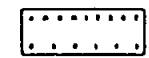


1 BASEMENT PLAN
1/8" = 1'-0"



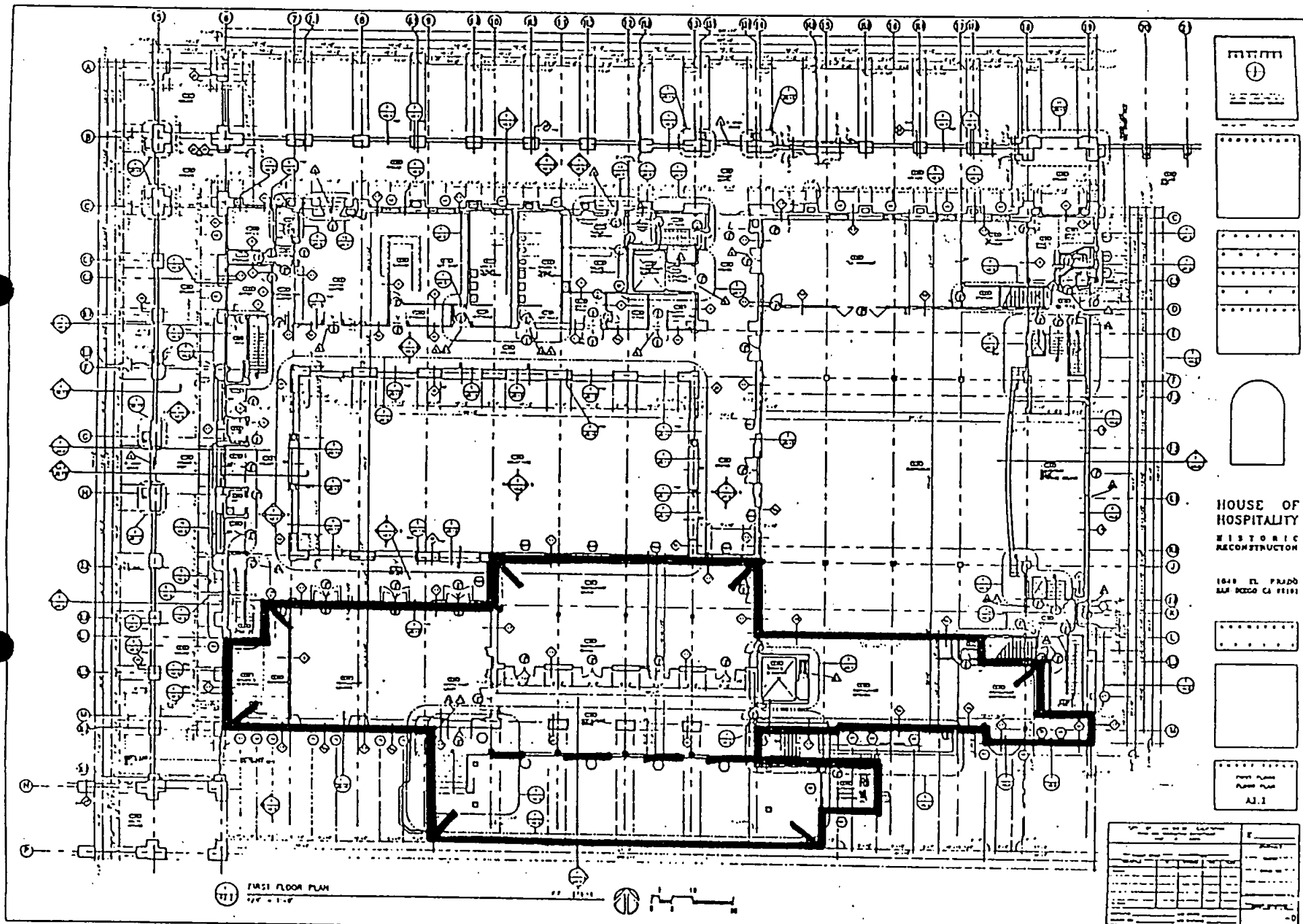
HOUSE OF
HOSPITALITY
HISTORIC
RECONSTRUCTION

1319 EL PRADO
SAN DIEGO CA 92101



A2.1

NO.	DATE	DESCRIPTION	BY	CHKD.
1	1/1/88	BASEMENT PLAN	J. L. L.	J. L. L.
2	1/1/88	BASEMENT PLAN	J. L. L.	J. L. L.
3	1/1/88	BASEMENT PLAN	J. L. L.	J. L. L.
4	1/1/88	BASEMENT PLAN	J. L. L.	J. L. L.
5	1/1/88	BASEMENT PLAN	J. L. L.	J. L. L.



Note: INCLUDES UPPER
DINING TERRACE

Exhibit "A": Leased Premises-
2 of 3 First Floor

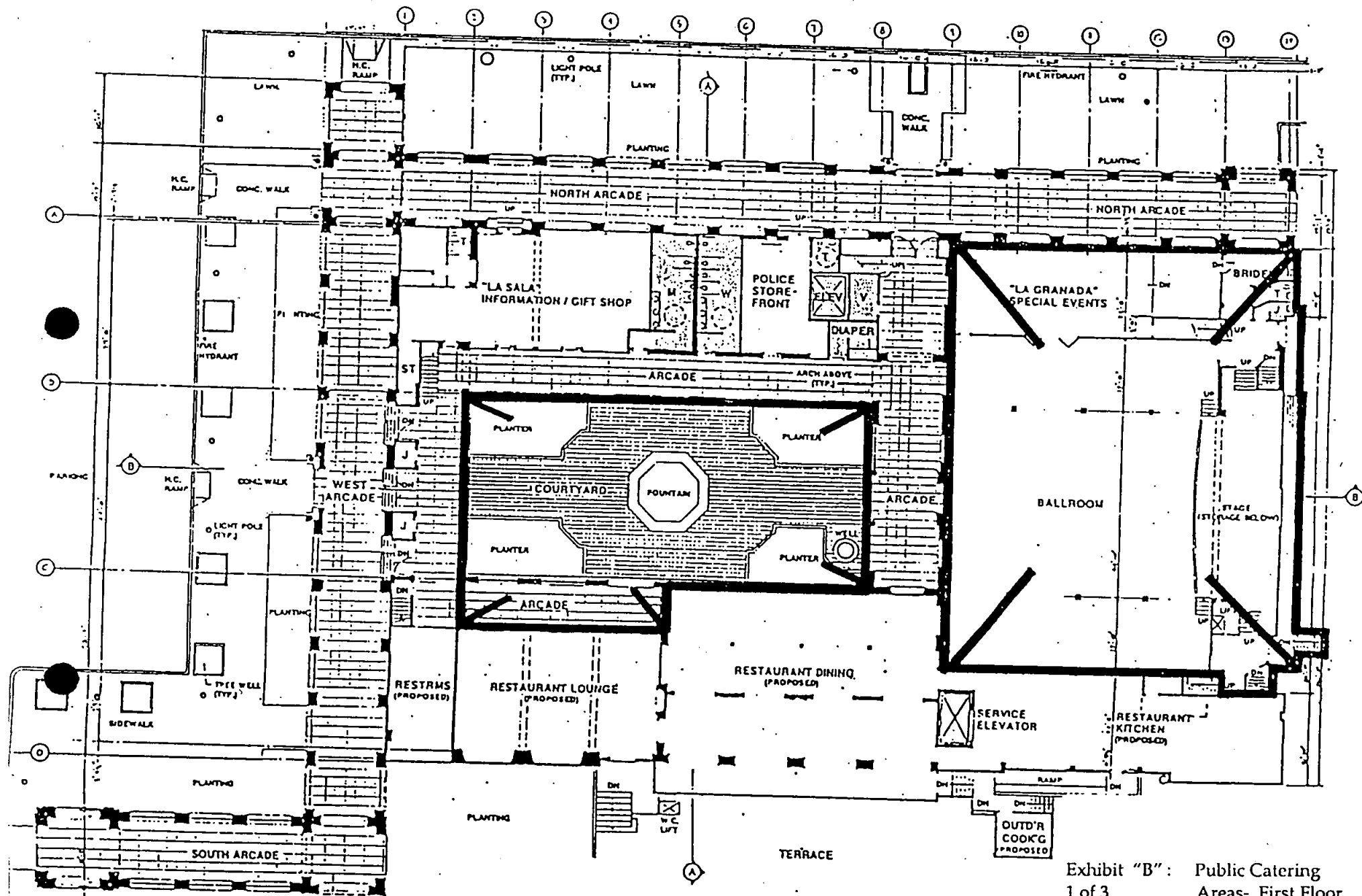


Exhibit "B": Public Catering
1 of 3 Areas- First Floor



PROPOSED FIRST FLOOR PLAN

HOUSE OF HOSPITALITY
RECONSTRUCTION

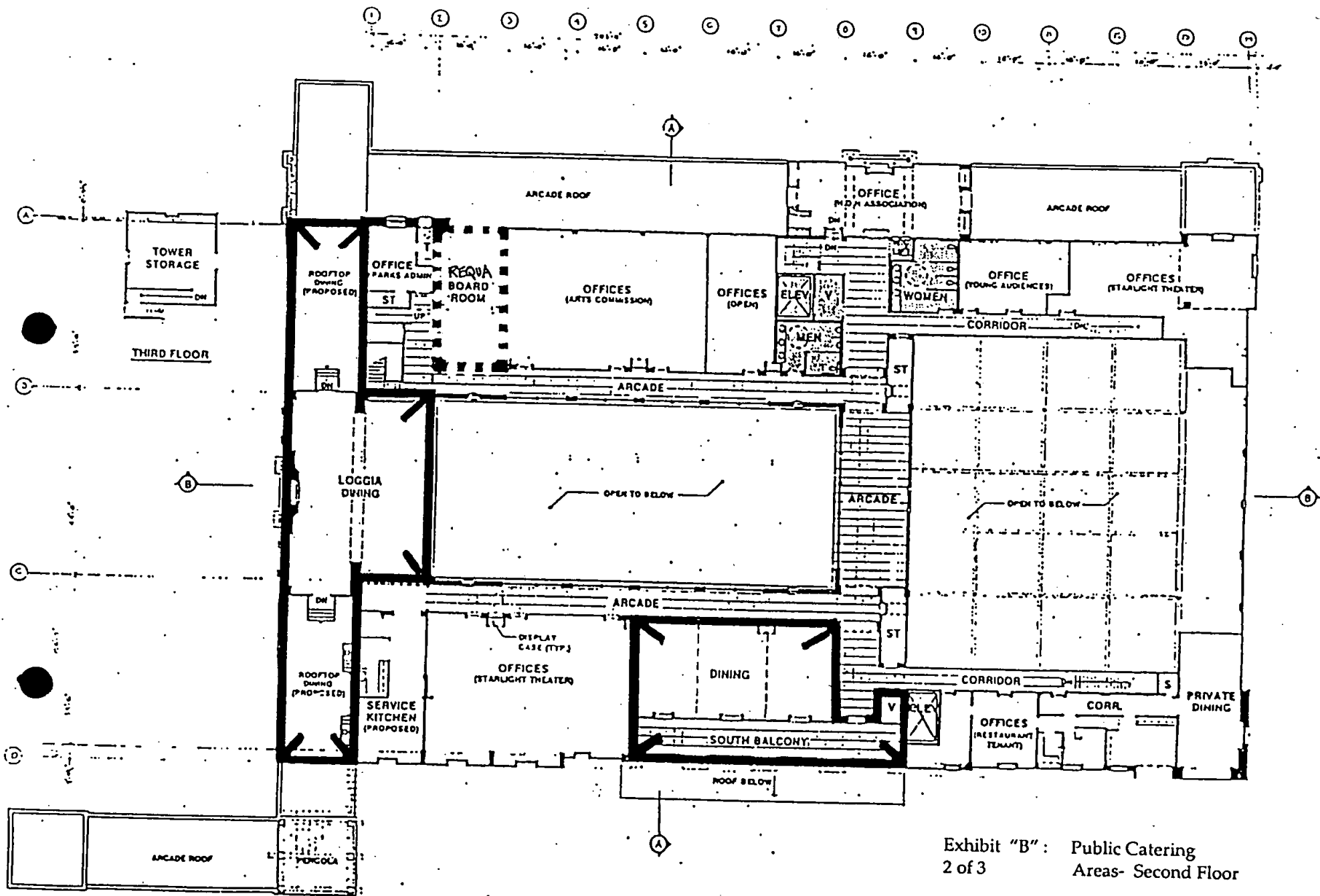


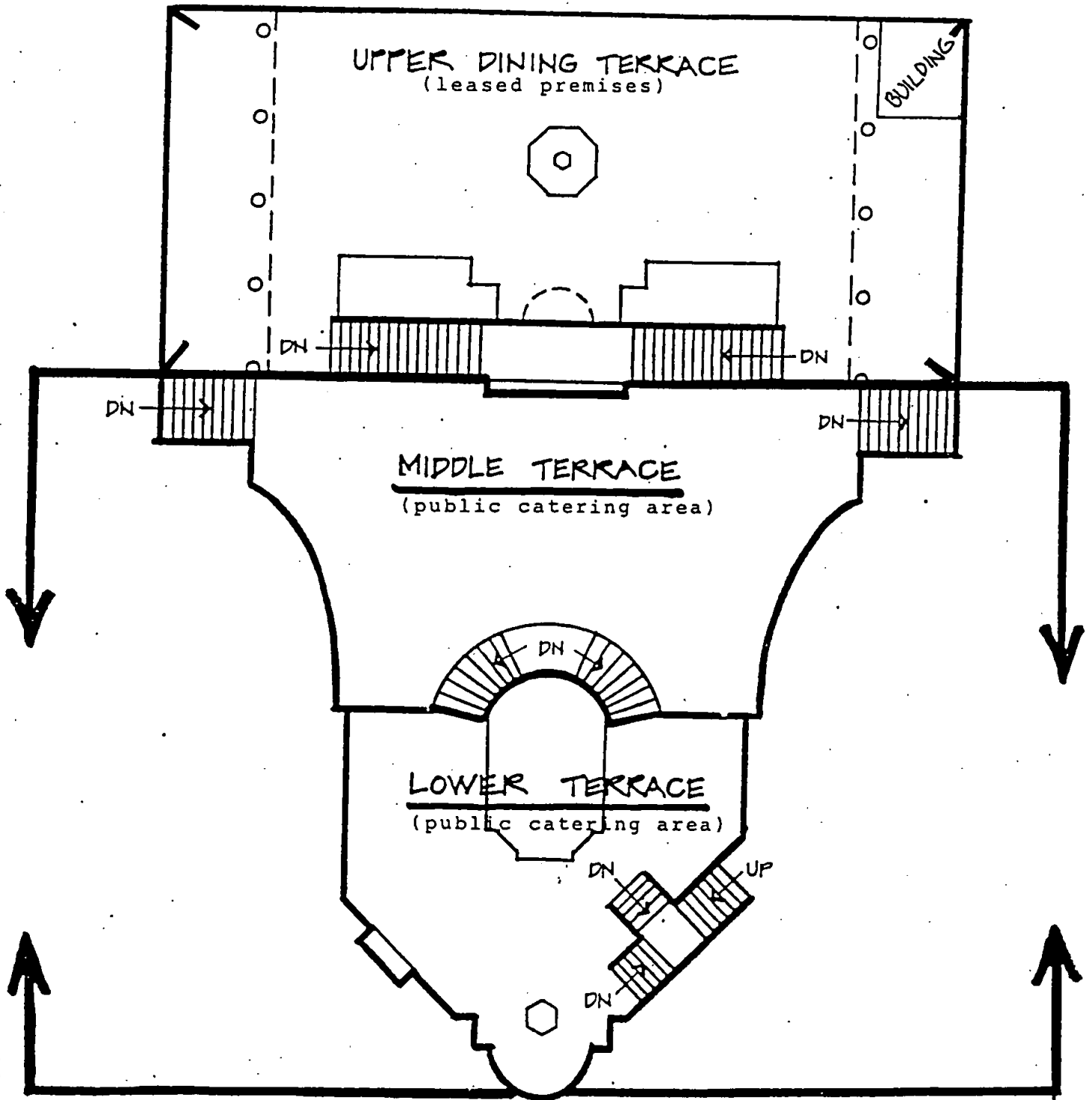
Exhibit "B": Public Catering
2 of 3 Areas- Second Floor



PROPOSED SECOND FLOOR PLAN

HOUSE OF HOSPITALITY
RECONSTRUCTION

RESTAURANT



HOUSE OF HOSPITALITY
TERRACES

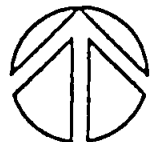


EXHIBIT C

Removable Trade Fixtures ("Tenant's Fixtures")

This is a preliminary list as of March 15, 1999. Actual removable trade fixtures may vary, but will be of similar type and description as listed. Lessee and Lessor may agree to other items as a more complete list becomes available.

ITEM	DESCRIPTION	QTY
01	WALK-IN REFRIGERATOR <i>MODULAR</i>	1
02	REFRIGERATION SYSTEM for #01	1
03	STORAGE SHELVING for #01	lot
04	POT STORAGE SHELVING	lot
05	3-COMPARTMENT POT SINKS	1
06	FAUCETS for #05	2
07	WALL SHELF	1
08	PREP TABLE	1
09	UTILITY DRAWERS incl w/8	3
10	2-COMPARTMENT PREP SINK incl w/8	1
11	FAUCET for #10	1
12	WALL SHELF	1
13	FOOD SLICER	1
14	CAN OPENER, MANUAL	1
15	UTENSIL RACK	1
16	TRASH CUTE w/CAN incl w/8	1
17-19	SPARE NUMBERS	-
20	HAND SINK w/FAUCET	1
21-22	SPARE NUMBERS	-
23	RACK SORTING SHELF	1
24	SOILED DISHTABLE incl w/23	1
25	S/S TRAY SLIDES incl w/23	lot
26	SPRAY REEL	1
27	WASTE COLLECTOR	1
28	QUICK DRAIN incl w/23	1
29	DISHWASHING MACHINE	1
30	WALL SHELF	1
31	CLEAN DISHTABLE incl w/23	1
32	S/S TRAY SLIDES incl w/23	lot
33	DRY STORAGE SHELVING	lot
34	1-DOOR REACH-IN FREEZER	1
35	1-DOOR REACH-IN REFRIGERATOR	1
36	PLATE DISPENSER	1
37	WAFFLE BAKER	1
38	MICROWAVE OVEN	1

ITEM	DESCRIPTION	QTY
39	REFRIGERATED DRAWER BASES	2
40	REFRIGERATION SYSTEM for #39 incl w/2	1
41	LETTUCE DISPENSER	1
42	PREP SINK	1
43	FAUCET for #42	1
44	PASS-THRU OVERSHELF incl w/42	1
45	PREP COUNTER w/TRAY GRIP incl w/42	1
46	SERVICE COUNTER	1
47	CASH DRAWER w/LOCKS incl w/46	lot
48	WALL SHELF	lot
49	MICROWAVE OVEN	1
50	RACK SLIDES FOR CUPS incl w/46	lot
51	COFFEE BREWERS NIC: by Owner	2
52	UTILITY DRAWERS incl w/46	2
53	RACK SLIDES FOR GLASSES incl w/46	lot
54	ICE & WATER STATION	1
55	P.O.S. SYSTEM NIC: by Owner	1
56	STORAGE WALL CABINET	1
57	~~S/S WALL FLOORING for #56~~	1
58	~~EXHAUST HOOD~~	1
59	~~EXHAUST for #58 EXHAUST HOOD~~	1
60	~~MAKE UP AIR for #58 EXHAUST HOOD~~	1
61	FIRE PREVENTION SYSTEM for #58	1
62	CONVECTION STEAMER w/KETTLE	1
63	FRYER	1
6364	FRYER	1
6455	DUMP CABINET w/FILTER & WARMER	1
66	~~to~~ O.B. RANGES w/OVEN	2
67	SALAMANDER BROILER	1
68	UTILITY CABINET w/SINK	1
69	FAUCET for #68	1
70	CHEESEMELTER	1
71	GRIDDLE	1
72	4 O.B. HOT PLATE	1
73	BROILER	1

ITEM	DESCRIPTION	QTY
74	REFRIGERATED EQUIPMENT BASE	1
75	HAND SINK w/FAUCET	1
76-77	SPARE NUMBERS	-
78	CHEF'S COUNTER	1
79	FOOD WARMERS	2
80	PICK-UP LEDGE w/TRAY GRIP incl w/78	1
81	TRASH CHUTES incl w/78	3
82	TRASH CANS	3
83	FOOD WARMERS	2
84	1-DOOR UNDERCOUNTER FREEZER incl w/78	2
85	REFRIGERATION SYSTEM for #84 incl w/2	1
86	MICROWAVE OVEN	1
87	REFRIGERATED BASE incl w/78	1
88	REFRIGERATION SYSTEM for #87 incl w/2	1
89	PASS-THRU OVERSHELVES incl w/78	2
90	LOAD CENTER incl w/78	1
91	HEAT LAMPS	4
92	4-PAN HOT FOOD UNIT	1
93	FILL FAUCET for #92	1
94	PLATE DISPENSERS (HEATED)	2
95	REFRIGERATED BASE incl w/78	1
96	REFRIGERATED SYSTEM for #95 incl w/2	1
97	BREAD TOASTER	1
98	UTILITY SINK incl w/78	1
99	FAUCET for #98	1
100	SPARE NUMBER	-
101	BACK BAR COUNTER incl w/108	1
102	3-DOOR REFRIGERATED SECTION	1
103	REFRIGERATED SYSTEM for #102 incl w/102	1
104	BEER DISPENSING TOWER	1
105	P.O.S. SYSTEM NIC: by Owner	1
106	BACKBAR SUPERSTRUCTURE NIC: by ID	1
107	SODA DISPENSING EQUIP'T NIC: by Owner	1
108	WORK COUNTER	1
109	PLATE DISPENSERS (HEATED)	2

ITEM	DESCRIPTION	QTY
A 145	FAUCET for #146 incl w/146	1
146	UTILITY SINK	1
147	TILTING KETTLES	2
148	SINK/KETTLE STAND	1
149	~~C/S WALL FLASHING for #150~~	1
150	~~EXHAUST HOOD~~	1
151	~~EXHAUST for #150~~ NIC: by HVAC	1
152	~~MAKE UP AIR for #150~~ NIC: by HVAC	1
153	FIRE PREVENTION SYSTEM for #150	1
154	ISLAND TABLE	1
155	UTENSIL RACK (CEILING MOUNTED)	1
156	PREP COUNTER	1
157	TRASH CHUTE w/CAN incl w/156	1
158	FILL FAUCET for #159	1
159	2-PAN HOT FOOD UNIT	1
160	6-DRAWER REFRIGERATED BASE incl w/156	1
161	REFRIGERATION SYSTEM for #160 incl w/2	1
162	2-DRAWER REFRIGERATED TABLE incl w/156	1
163	REFRIGERATION SYSTEM for #162 incl w/2	1
164	SNEEZE GUARD	1
165	JOCKEY BOXES s/SPEED RAIL	2
166	MIXING STATIONS w/SINK incl w/165	2
167	BOTTLE DISPLAY UNITS incl w/165	2
168	GLASSWASHING MACHINE	1
169	BAR (TOP & DIE) MODULAR SYSTEM NIC: by ID	1
170	BAR PICK-UP STATIONS NIC: by ID	2
171-175	SPARE NUMBERS	-
218-228	SPARE NUMBERS	-
229	UNDERCOUNTER REFRIGERATOR incl w/230	1
230	SERVICE COUNTER	1
231	UTILITY DRAWERS incl w/230	lot
232	CASH DRAWER w/LOCKS incl w/230	lot
233	P.O.S. SYSTEM NIC: by Owner	1
234	FOOD WARMERS	2
235	MICROWAVE OVEN	1

ITEM	DESCRIPTION	QTY
110	FILL FAUCET for #111	1
111	4-PAN HOT FOOD UNIT	1
112	P.O.S. SYSTEM NIC: by Owner	1
113	SODA DISPENSING GUN	1
114	JOCKEY BOX w/SPEED RAIL	1
115	MIXER STATION w/SINK & FAUCET incl w/114	1
116	BOTTLE DISPLAY STEPS incl w/114	1
117	HAND SINK STATION w/FAUCET incl w/114	1
118	WORK TABLE	1
119	MOBILE BUSSING CARTS	2
120	MOBILE HOT FOOD TABLE	1
121	MOBILE SERVING TABLE	1
122	SPARE NUMBER	-
123	WALK-IN BEER REFRIGERATOR <i>MODULAR</i>	1
124	REFRIGERATION SYSTEM for #123 incl w/2	1
125	W.I. REACH-IN DOORS incl w/123	2
126	STORAGE SHELVING for #123	lot
127	BEER DELIVERY SYSTEM incl w/104	1
128	BEER DISPENSERS incl w/104	3
129	SODA DISTRIBUTION SYSTEM NIC: by Vendor	1
130	SODA DISPENSING GUNS	2
131	STORAGE CABINET	1
132	3-COMPARTMENT BAR SINKS	1
133	BACKBAR COUNTER NIC: by ID	1
134	LIQUOR DISPLAY SECTIONS NIC: by ID	2
135	4-DOOR REFRIGERATED SECTION	1
136	REFRIGERATION SYSTEM for #135 incl w/2	1
137	ESPRESSO MACHINE	1
138	P.O.S. SYSTEM NIC: by Owner	1
139	HAND SINK w/FAUCET	1
A-140	4-DWR REFRIG. EQUIPMENT BASE	1
141	REFRIGERATION SYSTEM for #140 incl w/2	1
142	CHEESEMELTER	1
143	GRIDDLE	1
144	4-O.B. HOT PLATE	1

ITEM	DESCRIPTION	QTY
236	RACK SLIDES FOR CUPS incl w/230	lot
237	COFFEE BREWER NIC: by Owner	1
238	WALL SHELF	lot
239	RACK SLIDES FOR GLASSES incl w/230	lot
240	ICE & WATER STATION	1
241	FILL FAUCET for #234	1
242	UTILITY SINK incl w/230	1
243	FAUCET for #242	1
244	HAND SINK w/FAUCET	1
245	MOBILE WORK TABLE	1
246	HALF-DOOR PASS-THRU REFRIGERATOR	1
247	HEATED CABINET	1
248	MOBILE WORK TABLE	1
249	1-DOOR REACH-IN REFRIGERATOR	1
250	~~S/S WALL FLASHING for #251~~	1
251	~~EXHAUST HOOD~~	1
252	~~EXHAUST for #251~~ NIC: by HVAC	1
253	~~MAKE UP UNIT #251~~ NIC: by HVAC	1
254	FIRE PREVENTION SYSTEM for #251	1
255	DUMP CABINET w/FILTER & WARMER	1
256	FRYER	1
257	6 O.B. RANGE w/OVEN	1
258	SALAMANDER BROILER	1
259	REFRIGERATED EQUIPMENT BASE	1
260	GRIDDLE WITH 2 O.B.	1
261	SPARE NUMBER	-
262	BROILER	1
263	HAND SINK w/FAUCET	1
264	CHEF'S COUNTER	1
265	UTILITY DRAWERS incl w/264	lot
266	PICK-UP LEDGE w/TRAY GRIP incl w/264	1
267	LOAD CENTER incl w/264	1
268	FILL FAUCET for #269	1
269	4-PAN HOT FOOD UNIT	1
270	HEAT LAMP	1

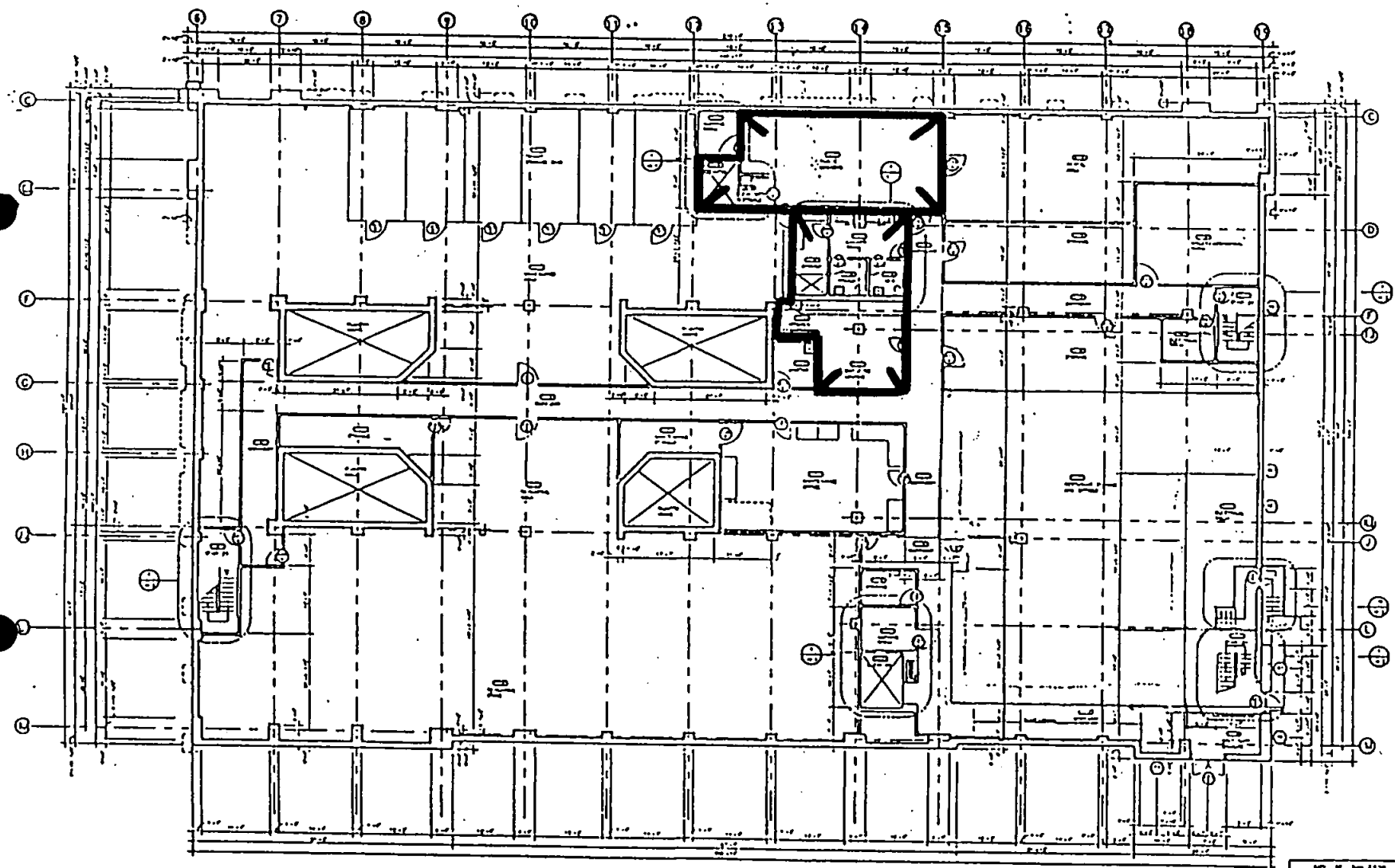
ITEM	DESCRIPTION	QTY
271	STORAGE SECTION incl w/264	1
272	UTILITY SINK incl w/264	1
273	TRASH CHUTE incl w/264	1
274	TRASH CAN	1
275	PASS-THRU REFRIGERATED BASE incl w/264	1
276	REFRIGERATION SYSTEM for #275 incl w/2	1
277	PASS-THRU OVERSHELVES incl w/264	2
278	MICROWAVE OVEN	1
279	FAUCET for #272	1
280-299	SPARE NUMBERS	-
300	REFRIGERATION RACK incl w/2	1
301	SPARE NUMBER	
302	RECEIVING SCALE	1
303	RECEIVING TABLE	1
304	OVERSHELF (TABLE MOUNTED) incl w/303	1
305	BANQUET CARTS (HEATED)	6
306	BANQUET CARTS (REFRIGERATED)	2
307	SPARE NUMBER	-
308	TRACK SHELVING SYSTEM	lot
309	DRY STORAGE SHELVING	lot
310	LIQUOR STORAGE SHELVING	lot
311	WINE STORAGE SHELVING	lot
312-315	SPARE NUMBERS	-
316	WALK-IN WINE REFRIGERATOR <i>MODULAR</i>	1
317	REFRIGERATION SYSTEM for #316 incl w/2	1
318	STORAGE SHELVING for #316	lot
319	EMPLOYEE LOCKERS	lot
320	4-O.B. RANGE w/OVEN	1
321	CONVECTION STEAMER w/KETTLE	1
322	STEAM KETTLE (TILTING)	1
323	STEAM KETTLE	1
324	BRAISING PAN (TILTING)	1
325	FLOOR TROUGH w/GRATE	1
326	CONVECTION OVEN (DOUBLE)	1
327	COMBI OVEN (ROLL-IN)	1

ITEM	DESCRIPTION	QTY
328	~~C/O WALL FLASHING 1/2" DIA~~	1
329	~~EXHAUST HOOD~~	1
330	~~EXHAUST FAN #329~~ NIC: by HVAC	1
331	~~MAKE UP AIR FAN #330~~ NIC: by HVAC	1
332	FIRE PREVENTION SYSTEM for #329	1
333	SPARE NUMBER	-
334	DISH-UP COUNTER	1
335	PICK-UP LEDGE w/TRAY GRIP incl w/334	1
336	MOBILE HOLDING OVENS	2
337	PASS-THRU OVERSHELVES incl w/334	2
338	MOBILE DISH CARTS	4
339-341	SPARE NUMBERS	-
342	HOSE REEL (WALL MOUNTED)	1
343	FAUCETS for #344	2
344	3-COMPARTMENT POT SINKS	1
345	WALL SHELF	1
346	WARE STORAGE SHELVING	lot
347	MOBILE DISH CARTS	2
348	CLEAN DISHTABLE	1
349	DISHWASHING MACHINE	1
350	WASTE COLLECTOR	1
351	PRE-RINSE UNIT	1
352	SPARE NUMBER	-
353	SOILED DISHTABLE incl w/348	1
354	RACK SORTING SHELF incl w/348	1
355	SPARE NUMBER	-
356	~~RECOIL THROU HOOD~~	1
357	ICE MACHINE w/STORAGE BIN	1
358	REMOTE CONDENSER for #357 incl w/2	1
359	SPARE NUMBER	-
360	HAND SINK w/FAUCET	1
361	FOOD MIXER (20 QUART)	1
362	MOBILE STAND for #361	1
363	FOOD PROCESSOR	1
364	MOBILE PREP TABLE	1

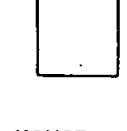
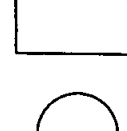
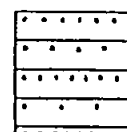
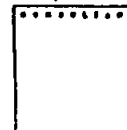
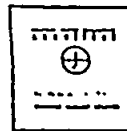
12

ITEM	DESCRIPTION	QTY
365	PREP TABLE	1
366	UTILITY DRAWERS incl w/365	4
367	WALL SHELF	1
368	FOOD SLICER	1
369	CAN OPENER, MANUAL	1
370	WALL SHELF incl w/367	1
371	PRE-RINSE UNIT	1
372	WASTE DISPOSER w/CONE	1
373	WALL SHELF incl w/367	1
374	2-COMPARTMENT PREP SINKS incl w/365	1
375	FAUCET for #374	1
376	PROOFER	1
377	3-DOOR REACH-IN REFRIGERATOR	1
378	FOOD MIXER (60 QUART)	1
379	WALK-IN FREEZER NOTE: Prices include ITEM 382, WALK-IN REFRIGERATOR. <u>MODULAR</u>	1
380	REFRIGERATION SYSTEM for #379 incl w/2	1
381	STORAGE SHELVING for #379	lot
382	WALK-IN REFRIGERATOR incl w/379	1
383	REFRIGERATION SYSTEM for #382 incl w/2	1
384	STORAGE SHELVING for #382	lot
385	TRASH COMPACTOR	1
386	FLOOR TROUGH w/GRATE	1
387	MOP SINK w/FAUCET	1
388	CHEMICAL STORAGE CABINET	1
389	WASHER NIC: by Owner	1
390	DRYER NIC: by Owner	1
391	SPARE NUMBER	-

Tables, chairs, booths, stools, umbrellas, artwork, décor, and other removable items

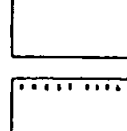
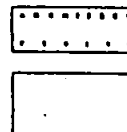


BASEMENT PLAN
1/8" = 1'-0"



HOUSE OF
HOSPITALITY
HISTORIC
RECONSTRUCTION

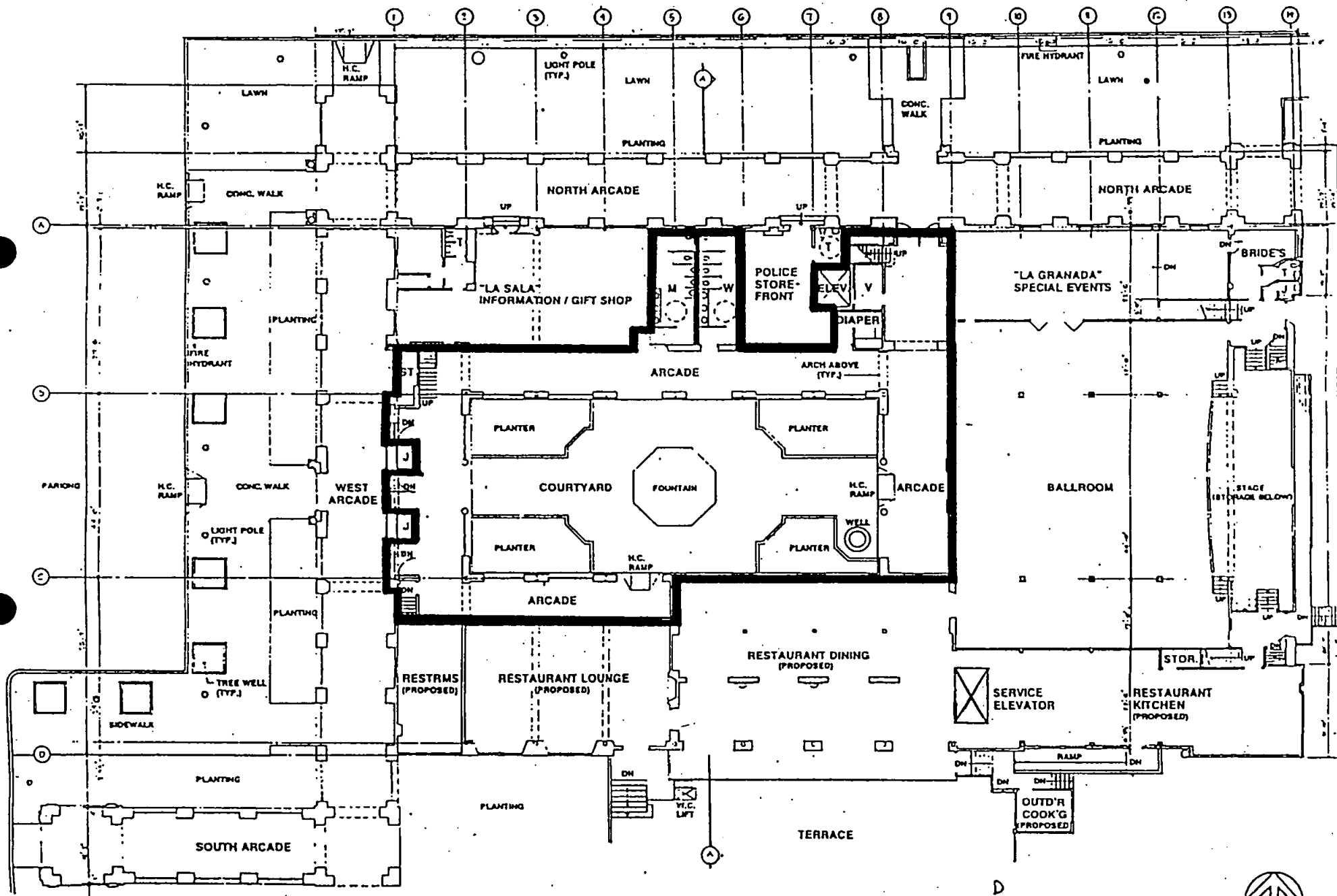
1319 EL PRADO
SAN DIEGO CA 92101



A2.1

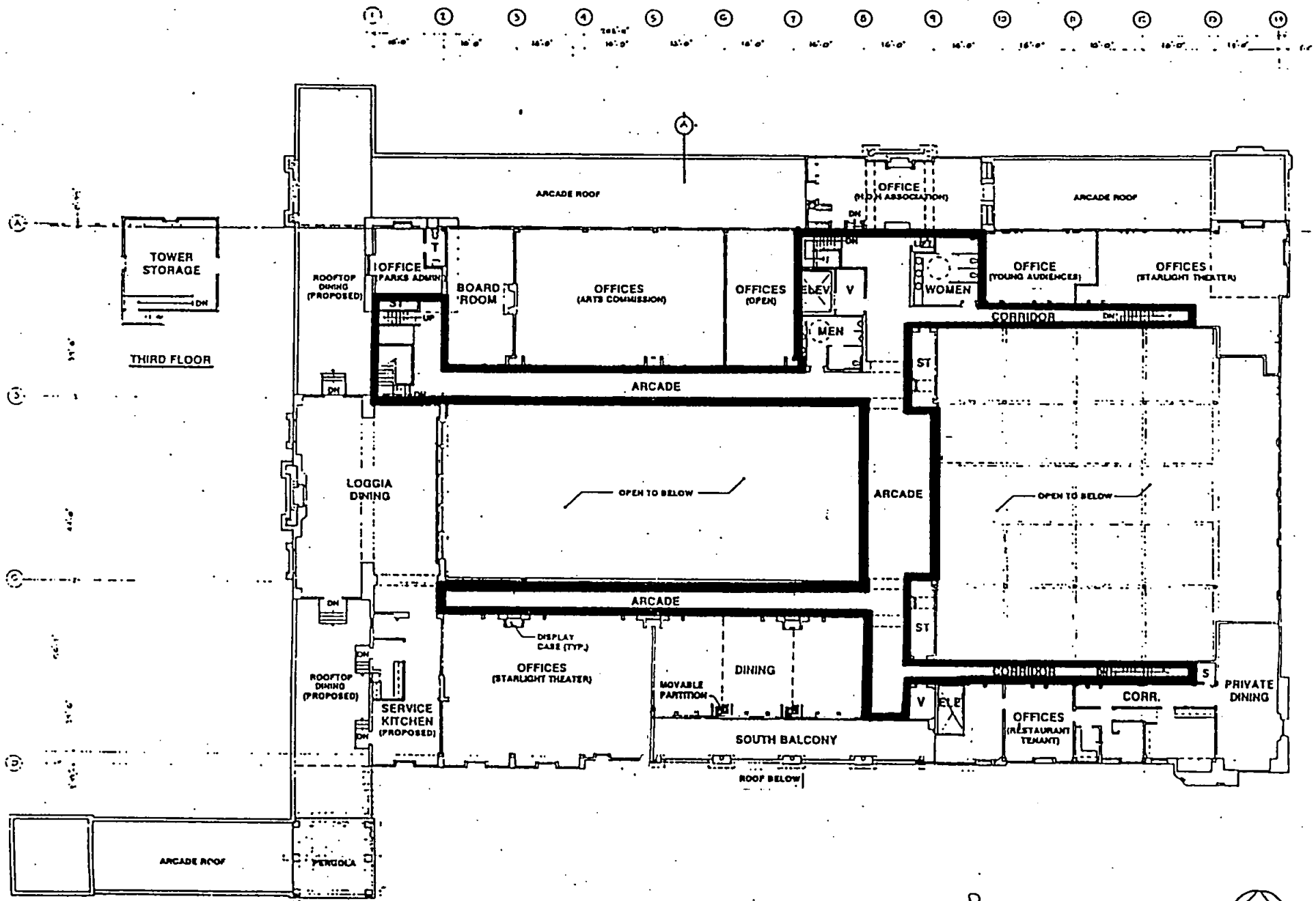
DATE	1/1/80
BY	W. J. B.
CHECKED	
APPROVED	
SCALE	1/8" = 1'-0"
PROJECT	HOUSE OF HOSPITALITY
SHEET	A2.1

Exhibit ^D/_E: Common Areas-
1 of 3 Basement



PROPOSED FIRST FLOOR PLAN





PROPOSED SECOND FLOOR PLAN

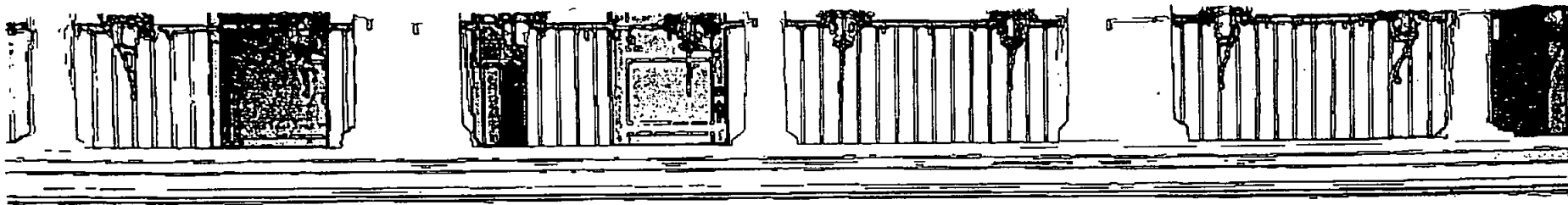


EXHIBIT E

SIGNAGE PLAN

Approved by
The City Of San Diego
Metro Parks Division Deputy Director

(Project name subject to change)

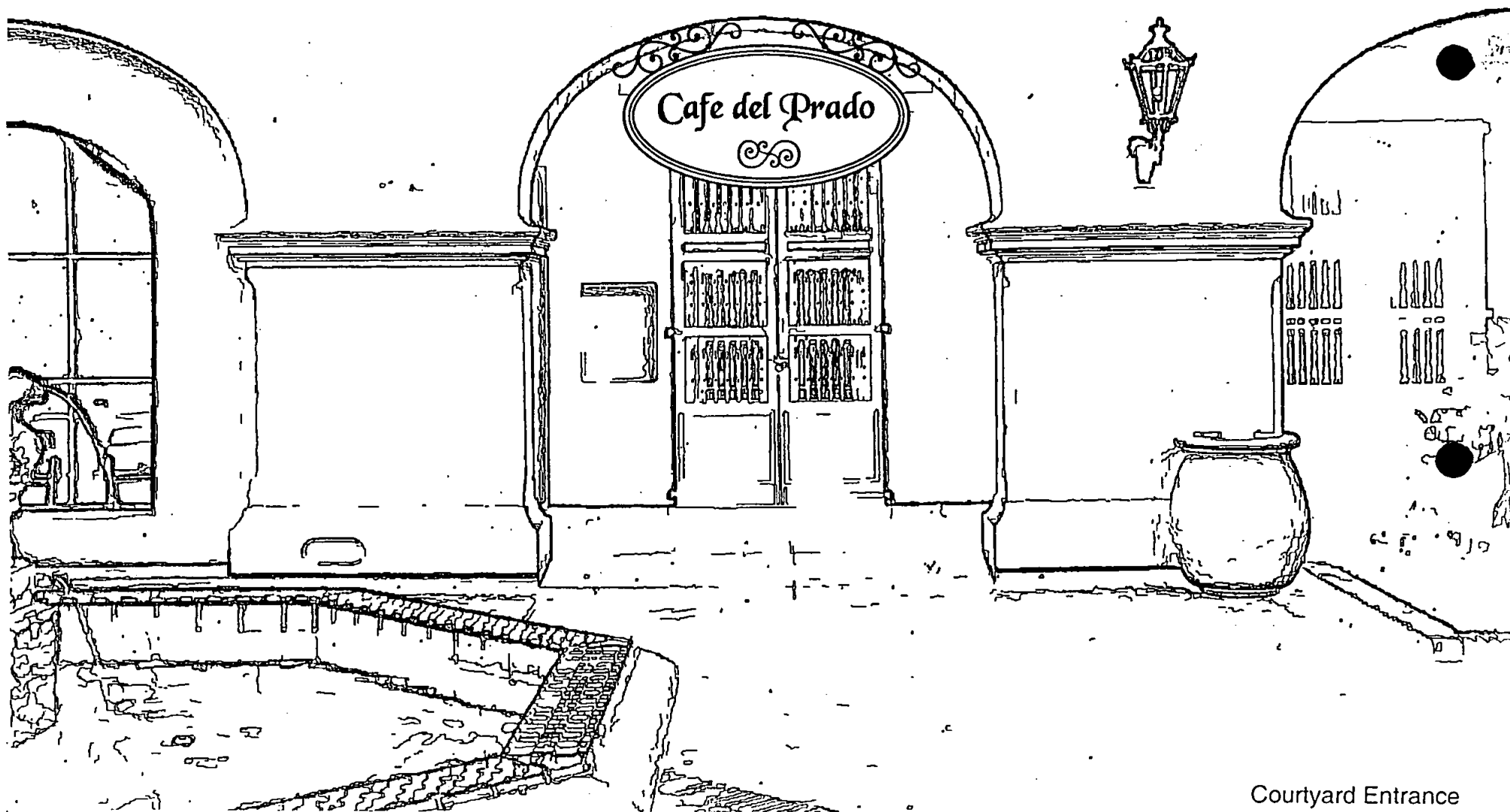
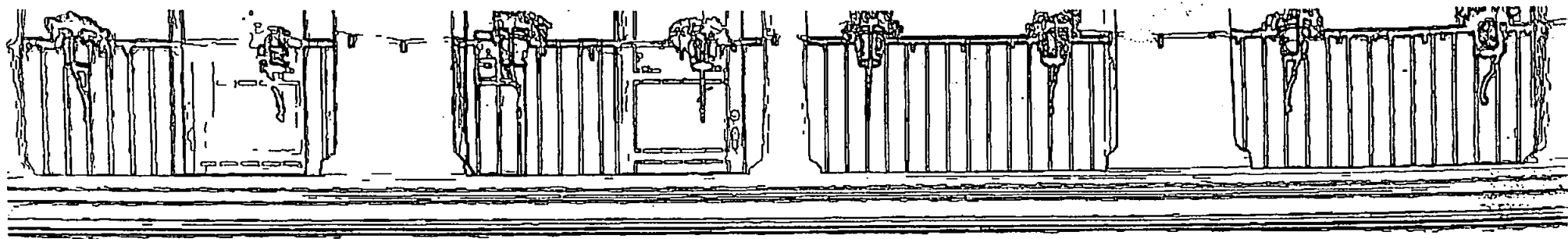


Courtyard Entrance

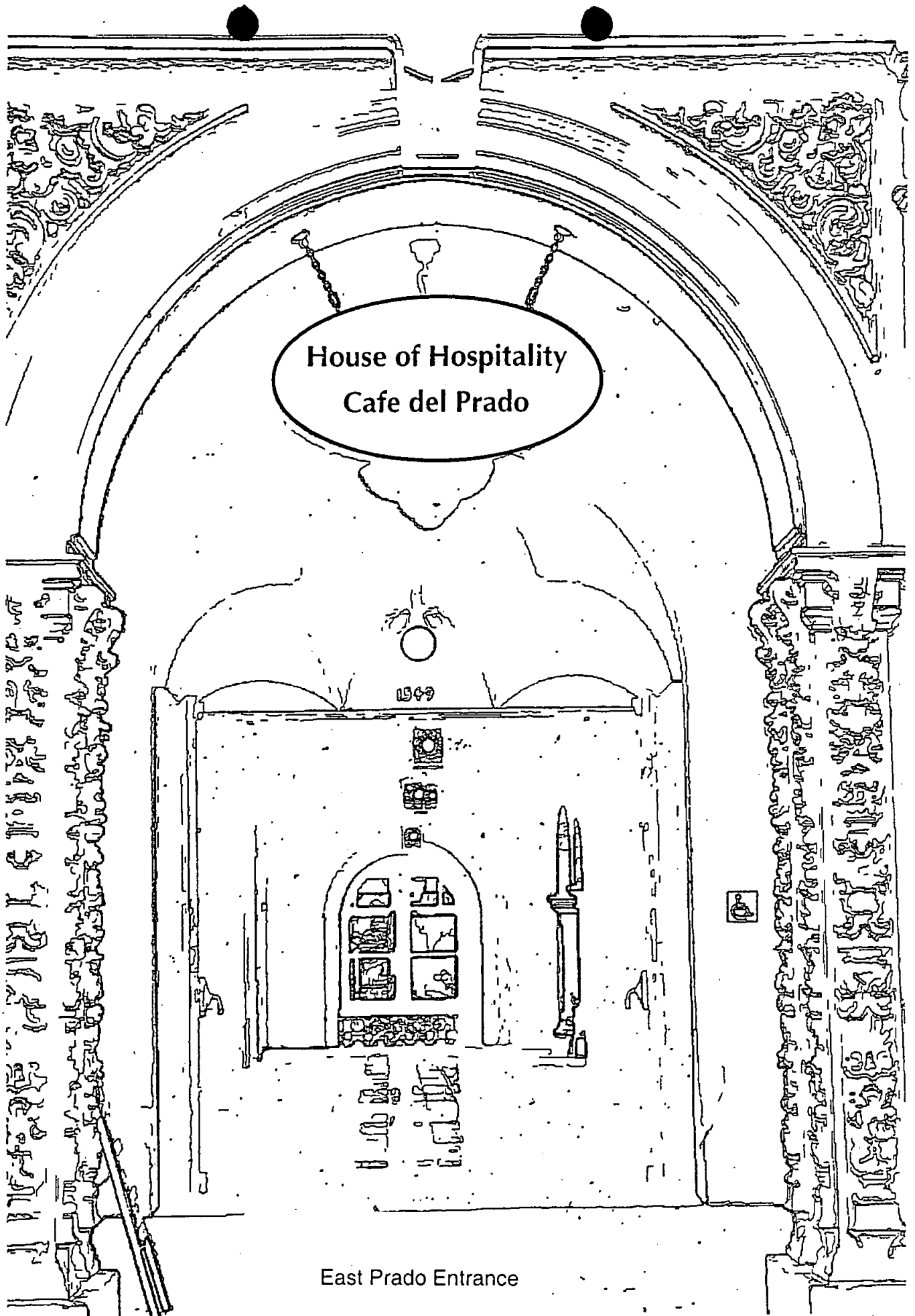


GRAPHIC SOLUTIONS

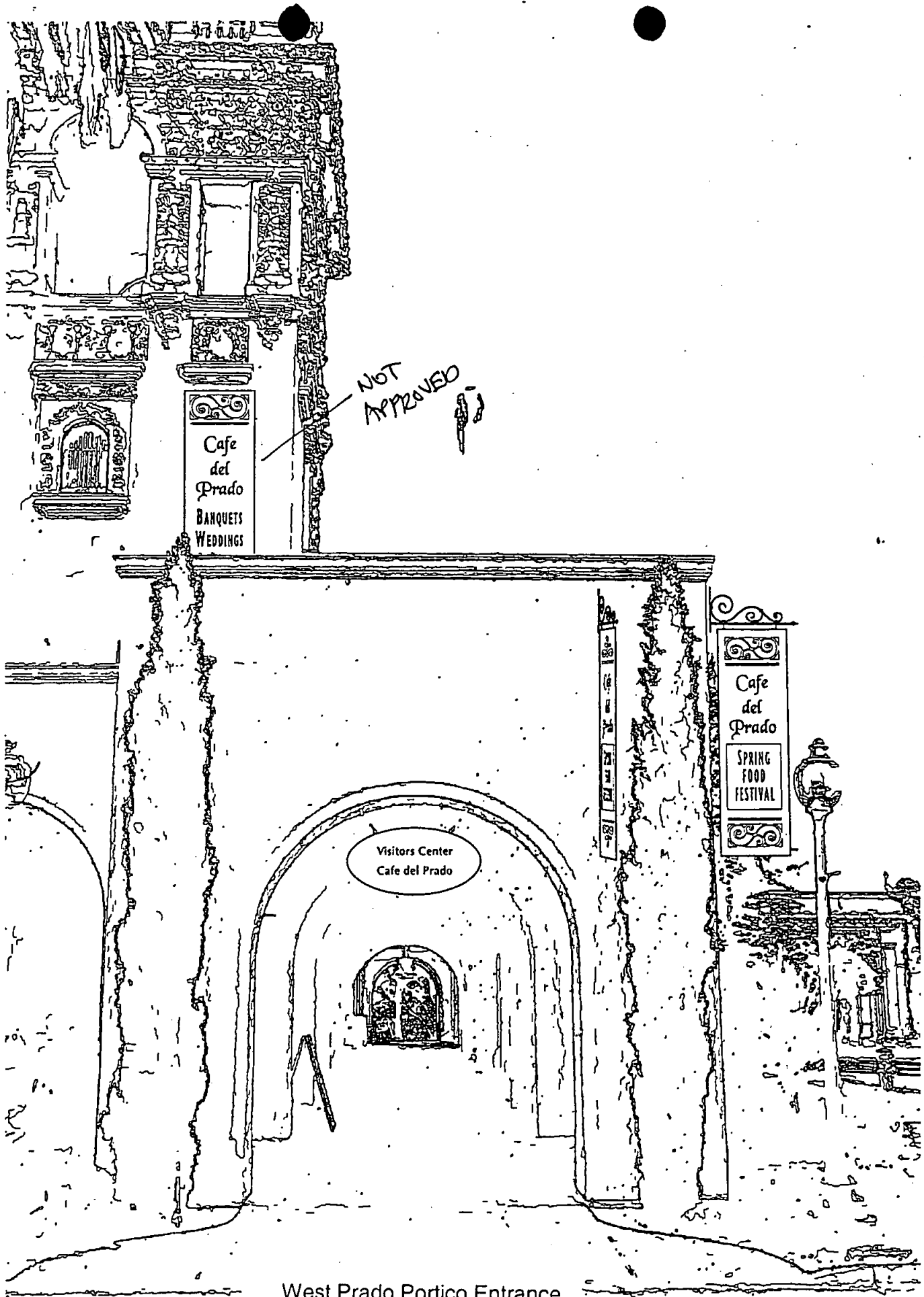
ENVIRONMENTAL GRAPHIC DESIGN
1750 KETTNER BOULEVARD - SAN DIEGO, CA 92101-2524
PH: 619 239-1335 FAX: 619 235-6018



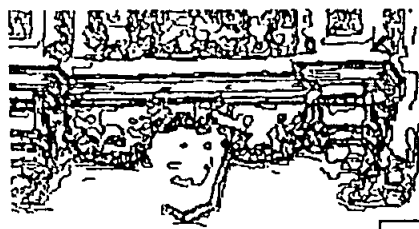
Courtyard Entrance



East Prado Entrance

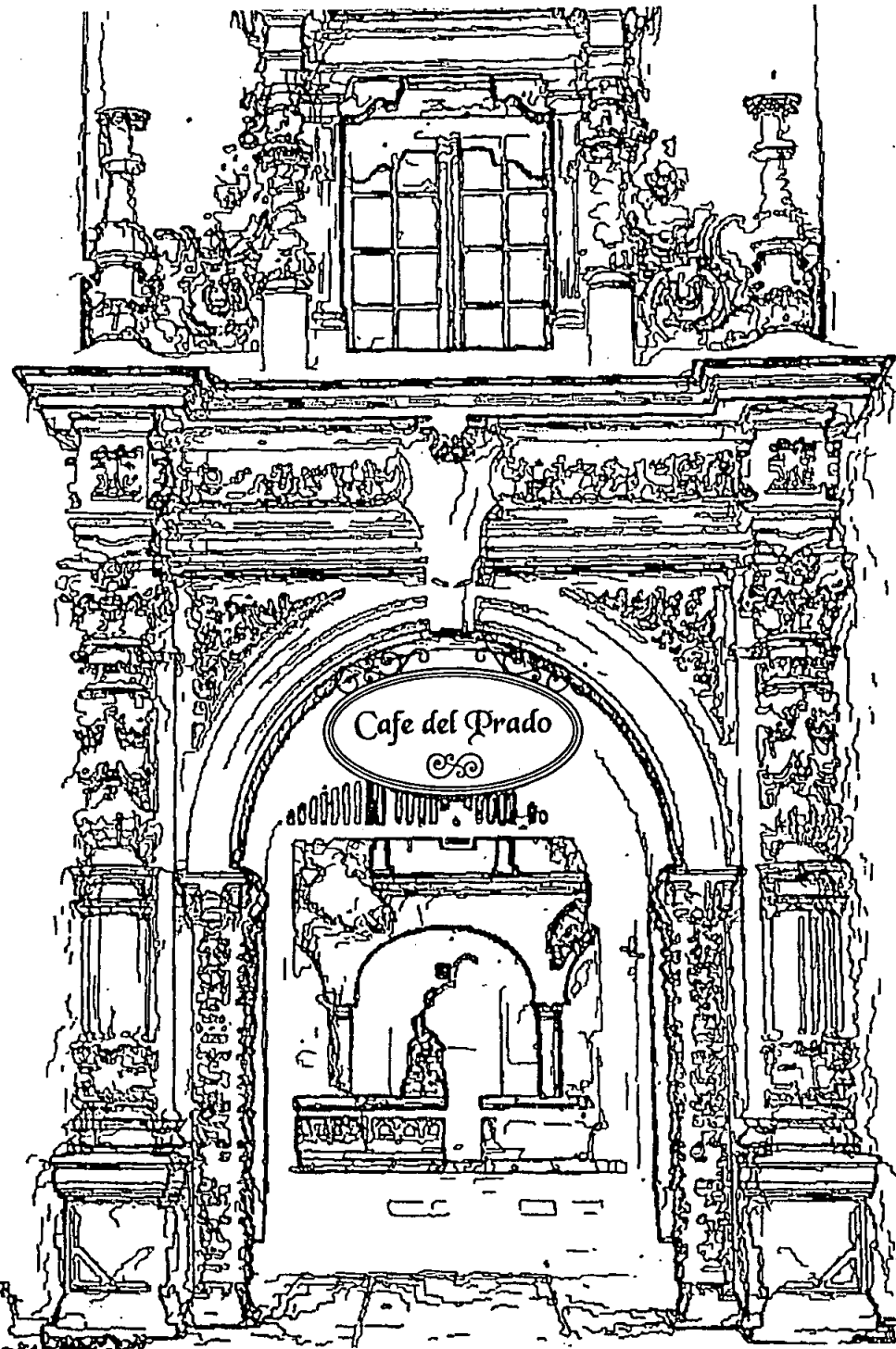


West Prado Portico Entrance



Cafe
del
Prado

SPRING
FOOD
FESTIVAL



Cafe
del
Prado

SPRING
FOOD
FESTIVAL



Plaza de Panama Entrance

9.2 General Development Plan

a. Development Schedule attached

b. Estimated Construction Costs
Construction cost including HVAC, plumbing and electrical are estimated to be \$750,000.00.

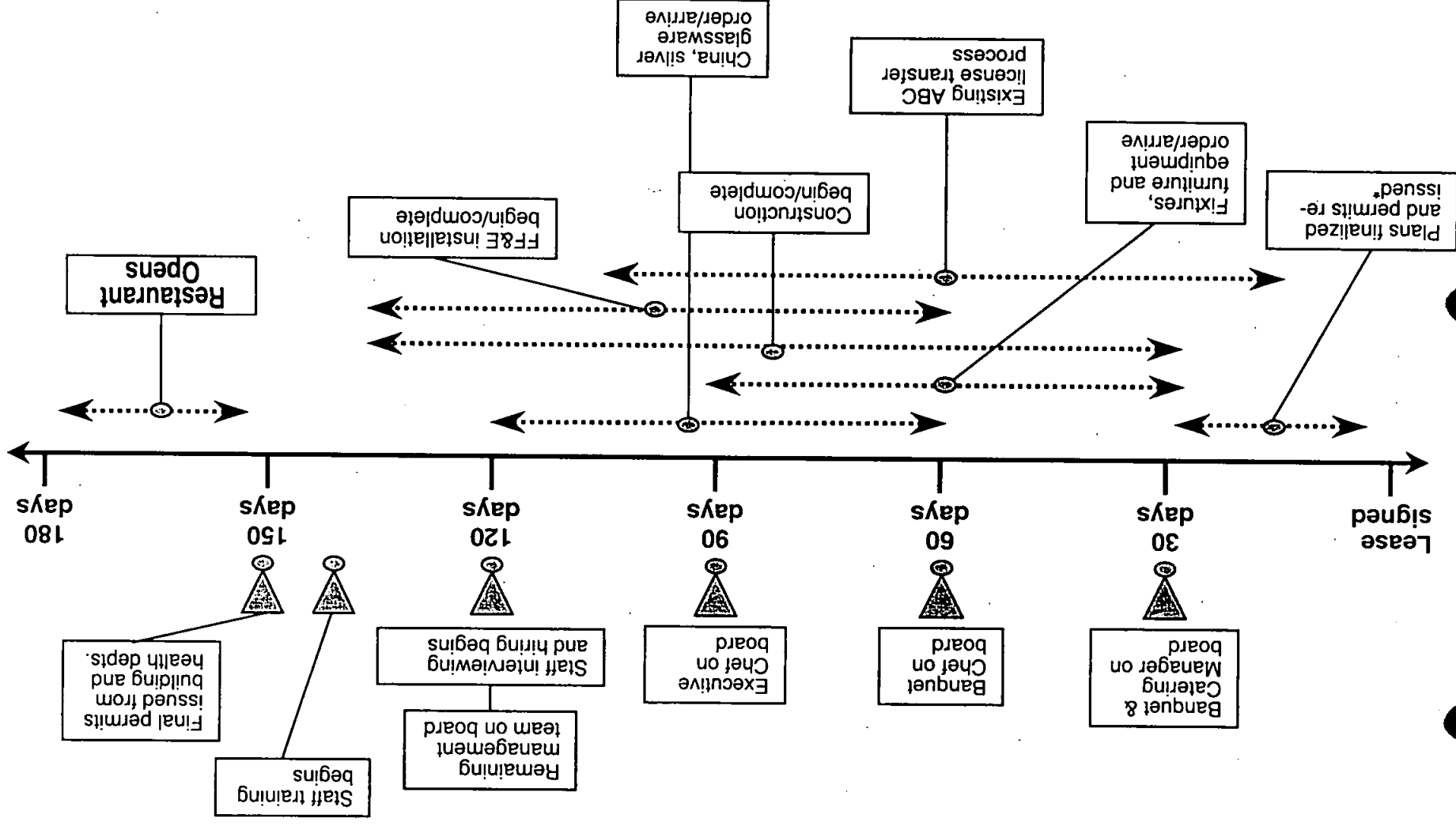
c. Financial Plan
Capital for the project will be provided by David and Lesley Cohn.

d. Floor Plans attached

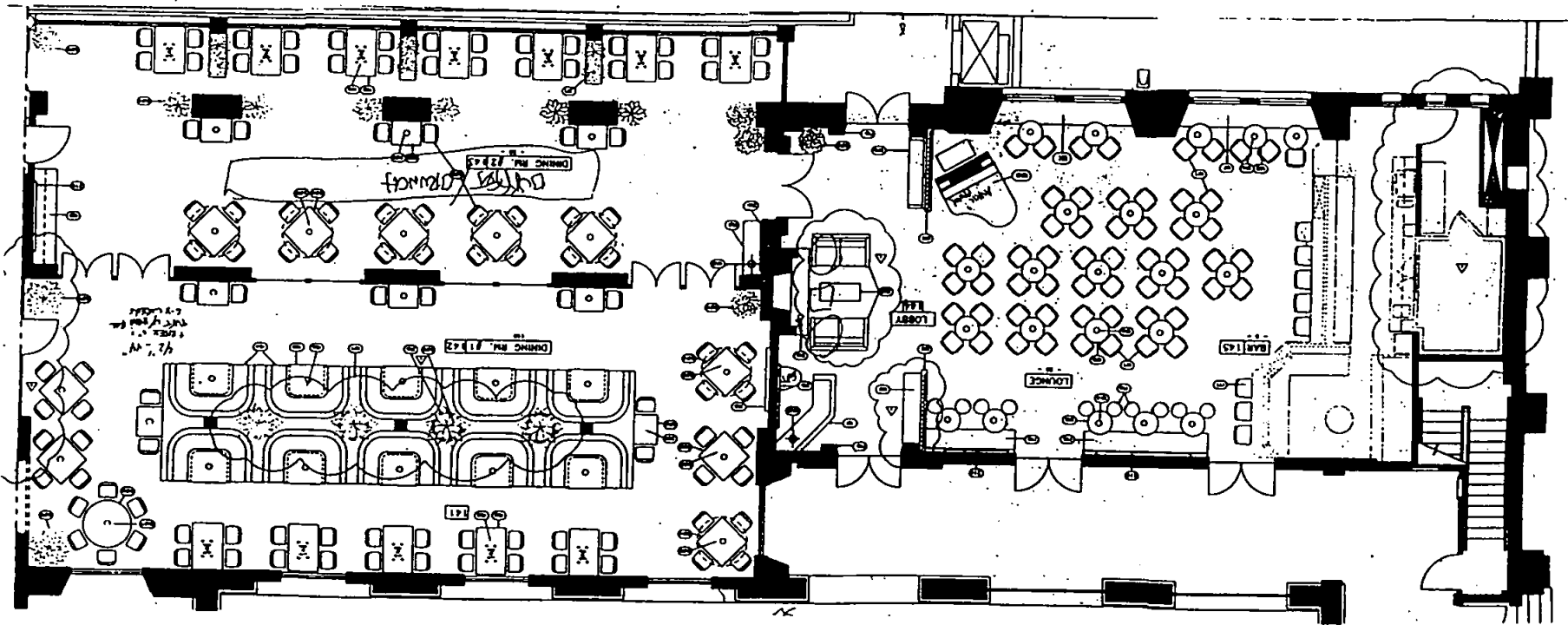
e. Tenant Improvement Plans
Currently being finalized by R. W. Smith and Co. For more information you may contact Richard Diehli, Project Designer at (619) 530-1800.

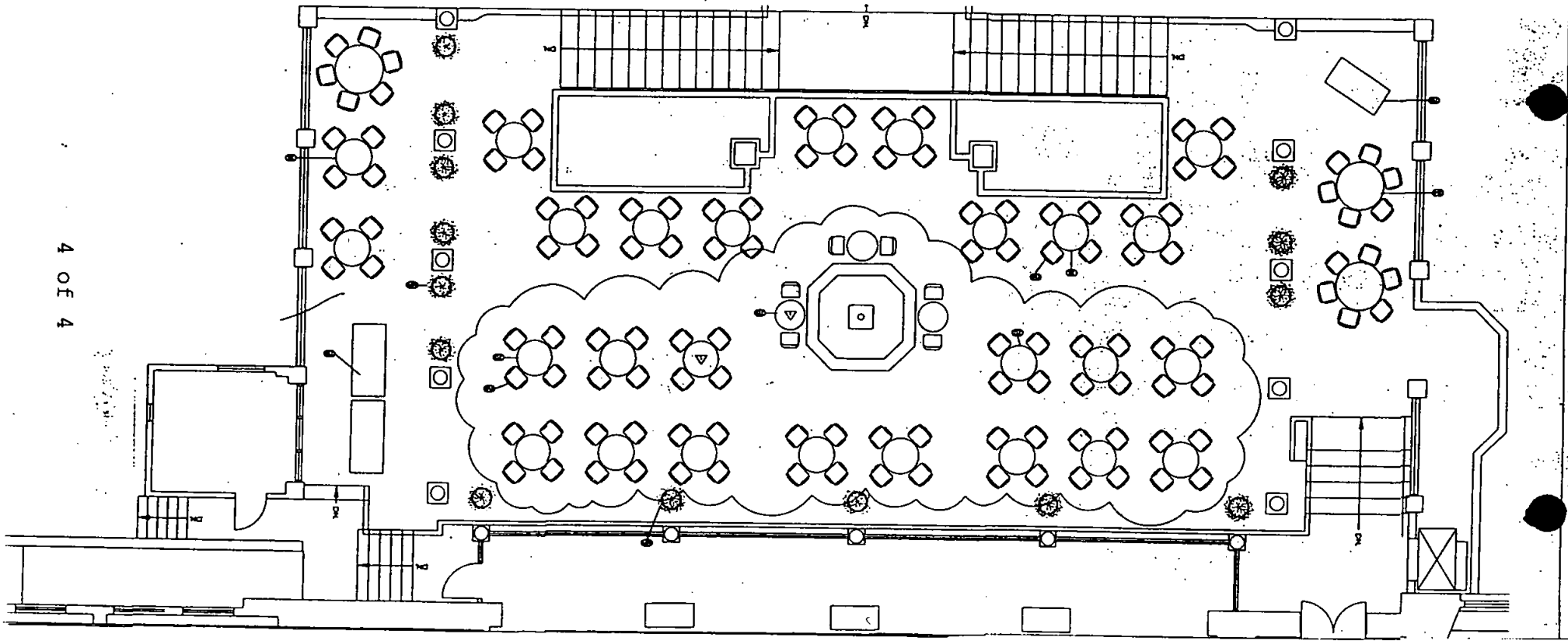
House of Hospitality Restaurant Development Schedule

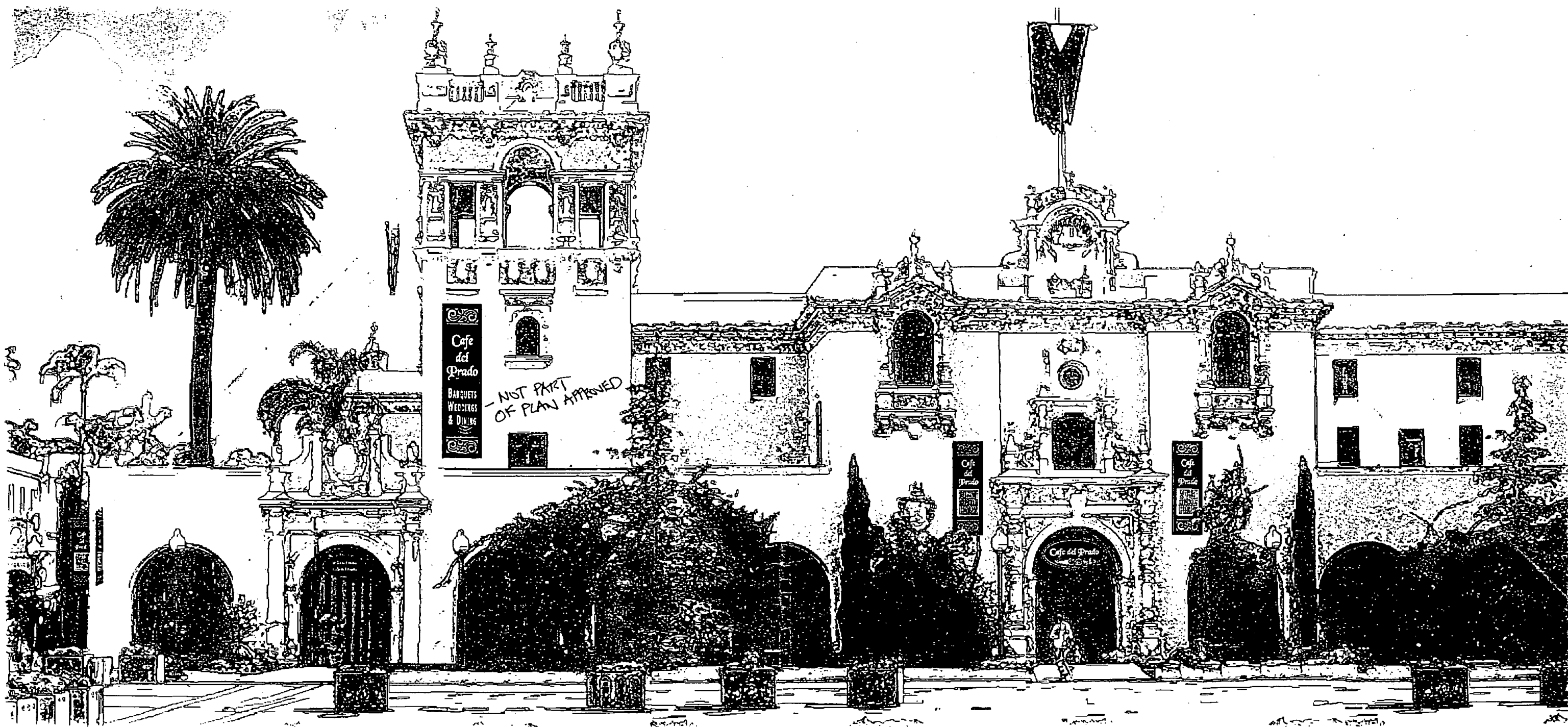
This timeline is based on a maximum opening date of 180 days from lease signing.



*based on assurances that current permits are up to date



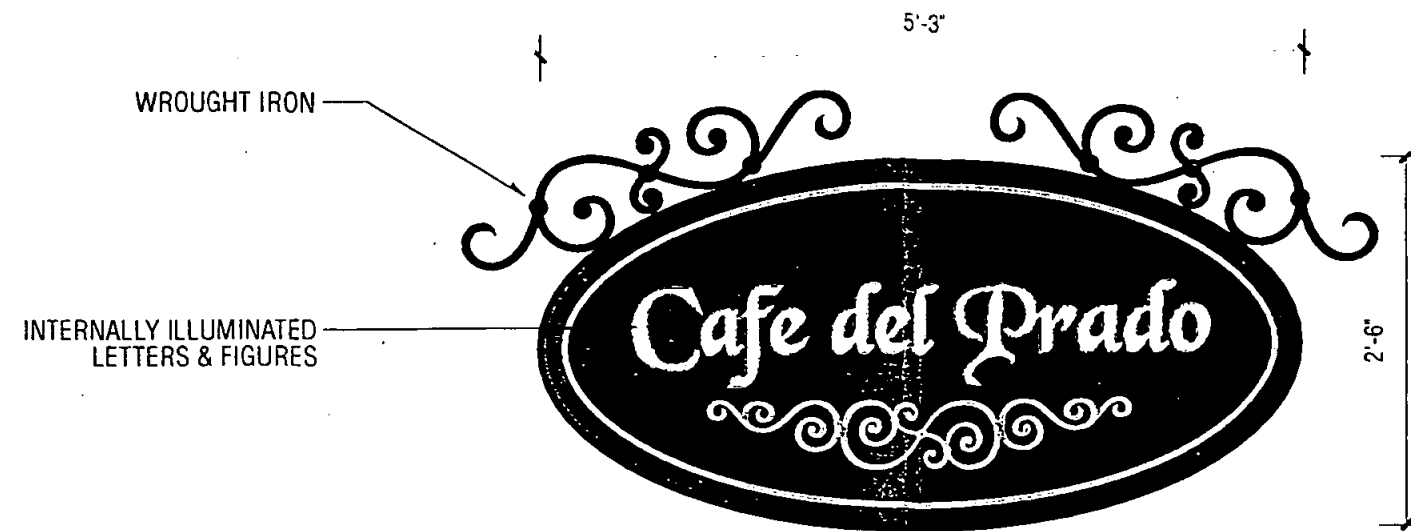




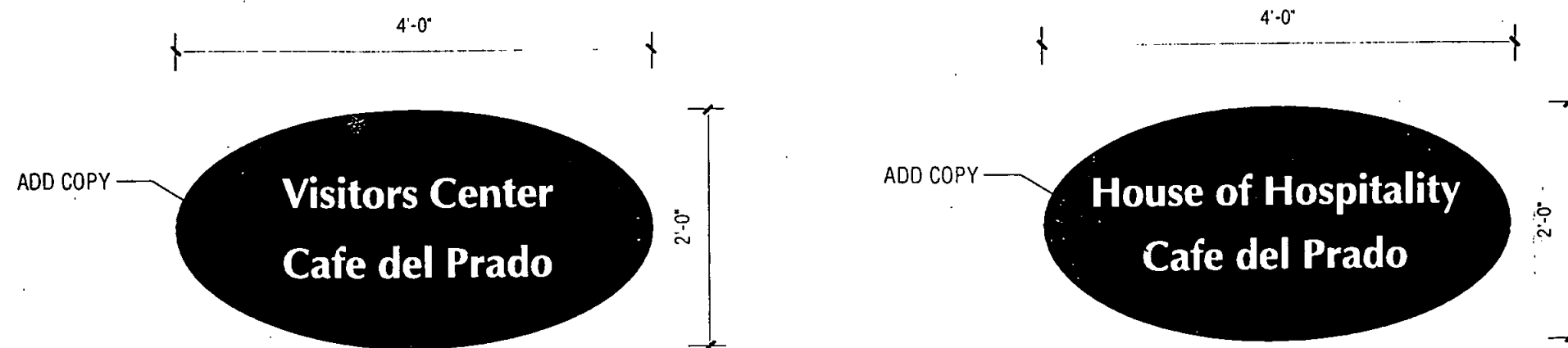
Plaza de Panama
(facing east)



GRAPHIC SOLUTIONS
ENVIRONMENTAL GRAPHIC DESIGN
1750 KETNER BOULEVARD • SAN DIEGO, CA 92101-2524
PH: 619 239-1335 FAX: 619 235-6018

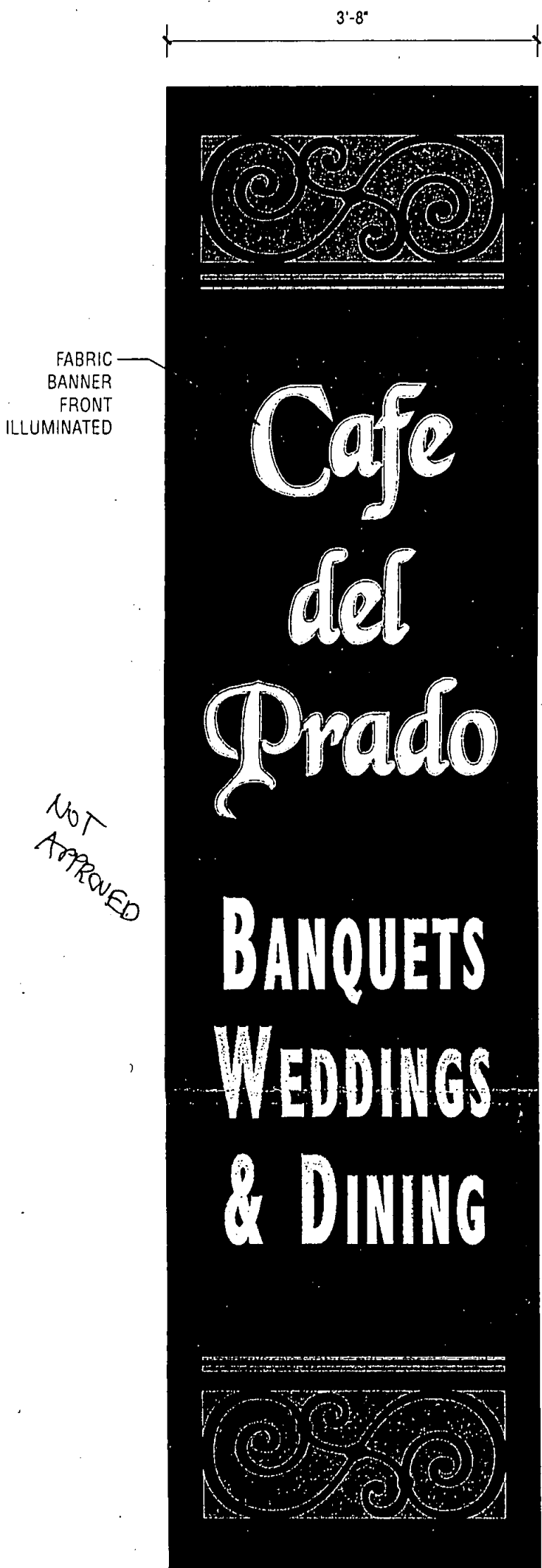


NEW HANGING SIGNS



EXISTING HANGING SIGNS

CAFE DEL PRADO
SCALE: 3/4" = 1'-0"



IDENTIFICATION BANNER - SINGLE FACED



EVENT BANNER - SINGLE FACED



EVENT BANNER - DOUBLE FACED

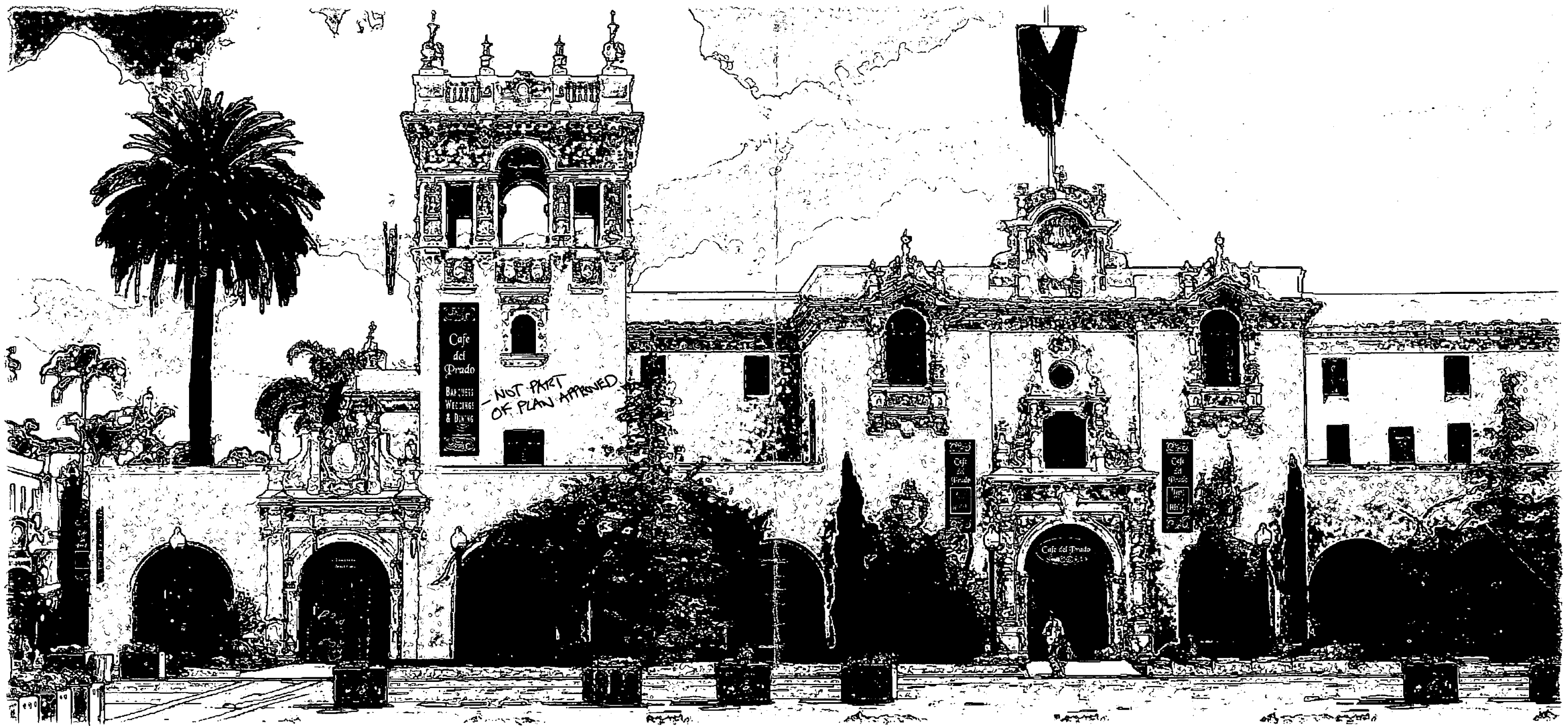


Courtyard Entrance



GRAPHIC SOLUTIONS

ENVIRONMENTAL GRAPHIC DESIGN
1750 KETTNER BOULEVARD • SAN DIEGO, CA 92101-2524
PH: 619 239-1335 FAX: 619 235-6018



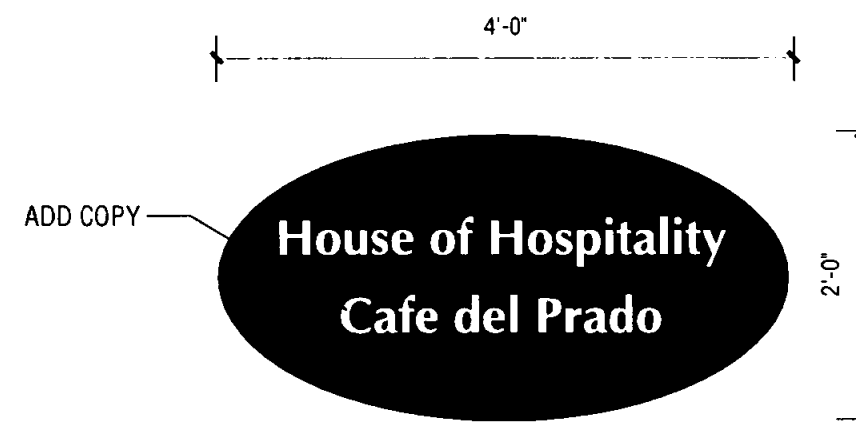
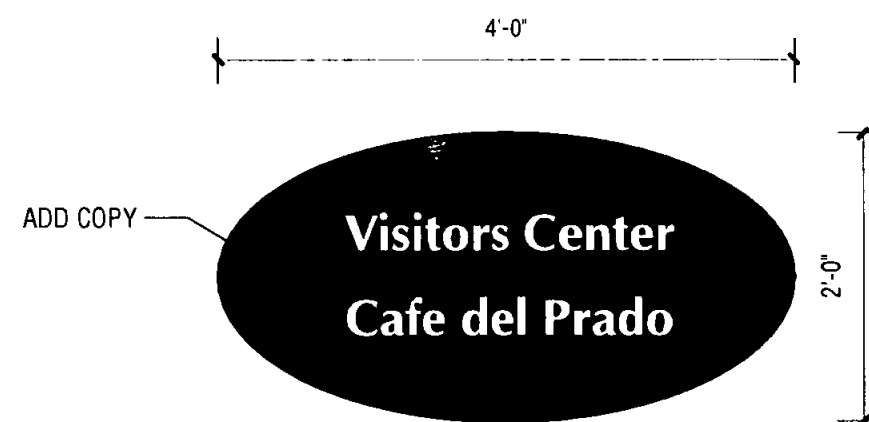
Plaza de Panama
(facing east)



GRAPHIC SOLUTIONS
ENVIRONMENTAL GRAPHIC DESIGN
1750 KETTNER BOULEVARD • SAN DIEGO, CA 92101-2524
PH: 619 239-1335 FAX: 619 235-6018

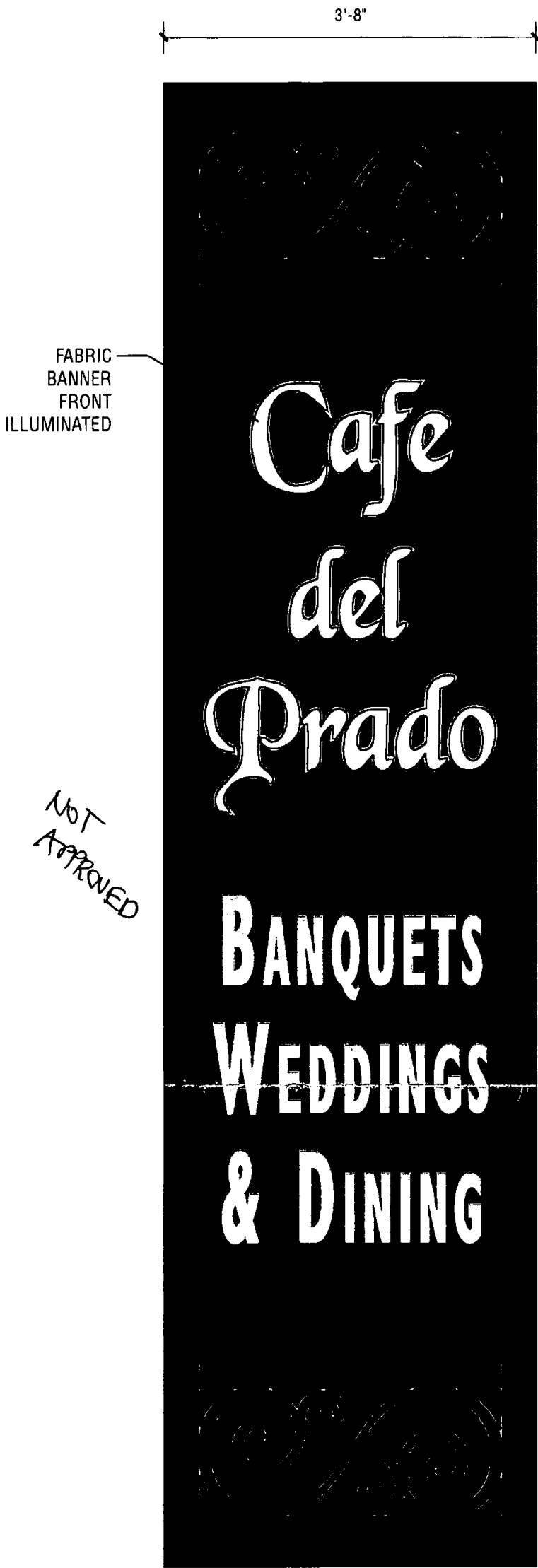


NEW HANGING SIGNS



EXISTING HANGING SIGNS

CAFE DEL PRADO
SCALE: 3/4" = 1'-0"



IDENTIFICATION BANNER - SINGLE FACED



EVENT BANNER - SINGLE FACED



EVENT BANNER - DOUBLE FACED

EQUAL OPPORTUNITY AGREEMENT

NON-DISCRIMINATION CLAUSE: Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Contractor shall ensure that its subcontractors comply with the City of San Diego's Equal Employment Opportunity Program.

EQUAL EMPLOYMENT OPPORTUNITY (EEO): Contractor has received, read, understands and agrees to be bound by the City of San Diego *Municipal Code*, Chapter II, Article 2, Division 27 (Equal Employment Opportunity Program) provided with the proposal package.

Contractor has submitted either a *Work Force Report* or an *Equal Employment Opportunity Plan* as required by Section 22.2705 of the City of San Diego *Municipal Code*.

City and Contractor agree that compliance with EEO provisions will be implemented, monitored, and reviewed by the City's Equal Opportunity Contracting Program (EOCP) staff.

EQUAL OPPORTUNITY CONTRACTING: Contractor has received, read, understands and agrees to be bound by the Equal Opportunity Contracting Program requirements described in the proposal package.

If requested, Contractor shall submit the *Outreach and Teaming Survey*. Contractor agrees to provide updated reports as requested by the City.

Contractor agrees to insert equal opportunity compliance language in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor.

Project Name: HOUSE OF HOSPITALITY RESTAURANT + BANQUET Bid No.: _____

Company Name: HARD WORK TOO, INC. Date: 3/8/99

David Cohn, PRESIDENT
Authorized Signature

DAVID COHN, PRESIDENT
Print Authorized Signature Name



THE CITY OF SAN DIEGO

EQUAL OPPORTUNITY CONTRACTING PROGRAM

1010 SECOND AVENUE • SUITE 500 • SAN DIEGO, CA 92101

(619) 533-4464 • FAX: 533-4474

WORK FORCE REPORT

The objective of the Equal Employment Opportunity Program is to ensure that contractors doing business with the City, or receiving funds from the City, will not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship.

NO OTHER FORMS WILL BE ACCEPTED

CONTRACTOR IDENTIFICATION

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☒ Lessee/Lessor

☐ Consultant

☐ Grant Recipient

☐ Insurance Company

☐ Other

Name of Company: HARD WORK TOO, INC. GALAXY GRILL, OLDFIES N GOODIES

AKA/DBA: BALBOA PARK WEDDINGS, HOUSE OF HOSPITALITY RESTAURANT & CATERING

Address (Corporate Headquarters, where applicable): 656 FIFTH AVE, SUITE R

City SAN DIEGO County SAN DIEGO State CA Zip 92101

Telephone Number: (619) 236-1299 FAX Number: (619) 236-1300

Name of Company CEO: DAVID COHN

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ FAX Number: () _____

Type of Business: RESTAURANT & CATERING Type of License: _____

The Company has appointed: DAVID COHN

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 656 FIFTH AVENUE SUITE R

Telephone Number: (619) 236-1299 FAX Number: (619) 236-1300

For Firm's: ☒ San Diego Work Force and/or ☐ Managing Office Work Force

I, the undersigned representative of

HARD WORK TOO, INC

(Firm Name)

SAN DIEGO

(County)

CALIFORNIA

(State)

hereby certify that information provided herein is true and correct. This document was executed on this day of

MARCH 8 1999

David Cohn

(Authorized Signature)

DAVID COHN

(Print Authorized Signature Name)

NAME OF FIRM: HARD WORK TOO, INC.

DATE: 3/8/99

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force.

Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other Ethnicities; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial											2	2		
Professional Specialty														
Engineers/Architects														
Technicians and Related Support														
Sales			1	1								2		
Administrative Support/Clerical														
Services			9								2	5		
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Nonconstruction Laborers*														

*Construction labors and other field employees are not to be included on this page

TOTALS EACH COLUMN			10	1							4	9		
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GRAND TOTAL ALL EMPLOYEES 24

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

RESOLUTION NUMBER R- 291443

ADOPTED ON MAR 29 1999

WHEREAS, the City entered into a lease agreement with House of Hospitality Association, Inc., a California nonprofit corporation [the Association], for the premises commonly known as the House of Hospitality in Balboa Park, on file in the office of the City Clerk as Document No. RR-289141 (and as subsequently amended) [the Association Lease]; and

WHEREAS, the Association Lease requires City consent to any sublease of the leased premises; and

WHEREAS, there was originally a sublessee of the Association, Lumen Hospitality, LLC, whose sublease was terminated in 1998 [the Lumen Sublease]; and

WHEREAS, since termination of the Lumen Sublease, the City and the Association have worked together to find a qualified replacement to complete the tenant improvements and open a restaurant at the House of Hospitality; and

WHEREAS, a Request for Proposals was issued and responses from several potential replacement sublessees were received and reviewed; and

WHEREAS, based upon a review of the responses and interviews with selected entities, the City Manager and the Association have negotiated a proposed sublease between Hard Work Too, Inc., a California corporation [Hard Work Too] and the Association; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is authorized to execute, for and on behalf of The City of San Diego, a Consent of City of San Diego, on file in the office of the City Clerk as Document No. RR 291443-1 consenting

to the lease between the Association and Hard Work Too, Inc., a California corporation, for the restaurant space and in the House of Hospitality located at 1549 El Prado, Balboa Park, at an initial annual minimum rent of \$153,652, with two 10-year options, under the terms and conditions set forth in that lease agreement on file in the office of the City Clerk as Document No. RR- 291443-2

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute the Indemnification Agreement with Hard Work Too, Inc., and the House of Hospitality Association, Inc., on file in the office of the City Clerk as Document No. RR- 291443-3.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:cdk
03/16/99
Or.Dept:REA
R-99-1030
Form=leaser.frm

Passed and adopted by the Council of San Diego on

MAR 29 1999

by the following vote:

YEAS: MATHIS, WEAR, KEHOE, STEVENS, WARDEN, STALLINGS,

MCCARTY, VARGAS, MAYOR GOLDING.

NAYS: NONE.

NOT PRESENT: NONE.

AUTHENTICATED BY:

SUSAN GOLDING

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(Seal)

By: Lori A. Witzel, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R- 291443, passed and adopted by the Council of The City of San Diego, California on MAR 29 1999.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By: Lori A. Witzel, Deputy

CONSENT OF CITY OF SAN DIEGO

The undersigned, on behalf of the City of San Diego ("CITY"), hereby consents to the Percentage Lease between The House of Hospitality, Inc., a California non profit corporation, as lessor ("LESSOR"), and Hard Work Too, Inc., a California corporation, as lessee ("LESSEE"), dated APR 01 1999, 1999 (the "Lease"), in connection with a portion of the House of Hospitality building in Balboa Park, as described in the Lease (the "Premises").

In the event the master lease between CITY as lessor, and LESSOR, as lessee (the "Master Lease"), terminates, or in the event the term of the Lease extends beyond the term of the Master Lease and the Master Lease is not extended, CITY shall recognize the Lease and shall be bound by the terms and conditions thereof, including without limitation all options to extend, as though CITY were the lessor thereunder.

CITY further agrees as follows:

1. Uses. CITY, at no charge from LESSEE, may host functions related solely to official CITY business in the public catering areas of the Premises, as described in the Lease. Such functions shall be scheduled no more than twenty-one (21) days in advance and shall not conflict with other events scheduled by LESSEE. CITY may provide its own food and beverages at such functions; however, CITY is encouraged to use the services of LESSEE.

2. Easements and Reservations. In connection with (i) CITY's reservation of rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises, (ii) CITY's reservation of right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Premises for utilities, thoroughfares, or access; and (iii) CITY's right to enter the Premises for the purpose of making repairs to or developing municipal resources and services, CITY shall not unreasonably or substantially interfere with LESSEE's use of the Premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Premises resulting from CITY exercising such rights reserved. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

3. Parking. CITY recognizes LESSEE'S desire for parking for its customers, and CITY will use its best efforts to designate a public parking lot in Balboa Park for LESSEE'S customers' non-exclusive use. Throughout the term of the Lease, the Park and Recreation Department of CITY shall issue LESSEE a right-of-entry permit at no charge designating a public parking lot in Balboa Park from which LESSEE can operate valet parking or shuttle service to and from the Premises, without the right to reserve parking spaces; the availability of parking spaces is not guaranteed to LESSEE. Upon prior notice to LESSEE, the Park and Recreation Department may designate a different public parking lot in Balboa Park, and the choice of parking lot shall be determined in the

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sole and absolute discretion of the Department.

4. Assignment and Subletting. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have an interest in the Lease as a sublessee or assignee. The City Manager's approval of any assignment or sublease of the Premises will not be unreasonably withheld provided all such persons and entities which will have an interest in the Lease as a sublessee or assignee are of good character and reputation in the community.

5. Encumbrancing. Pursuant to City Charter Section 225, the City Manager must review and approve every person or entity which will have a financial interest in the Lease. The City Manager's approval of any person or entity which will have a financial interest in the Lease will not be unreasonably withheld, provided all such persons and entities are of good character and reputation in the community.

6. Eminent Domain. CITY shall not undertake a condemnation proceeding of the Premises without reasonable grounds.

7. Middle and Lower Garden Terraces. The CITY Park and Recreation Department will use its best efforts to coordinate scheduling with LESSEE in order to avoid any use at the Organ Pavilion and surrounding areas that may disrupt events held by LESSEE on the Garden Terraces.

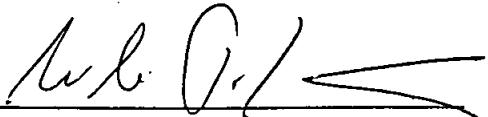
8. Unavoidable Delay. If the performance of any act required of CITY is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of CITY, CITY shall be excused from performing that act for the period equal to the period of the prevention or delay; however, CITY shall notify LESSOR in writing of such fact within ten (10) days after the beginning of any such claimed delay.

9. Development Plan. The City Manager or his designee shall have the authority to authorize changes to the General Development Plan provided the basic concept may not be modified without CITY Council approval, and a document evidencing any approved changes shall be filed in the Office of the CITY Clerk. The City Manager, in his sole discretion, may approve an extension to LESSEE's development schedule of the Premises of up to one (1) year without further CITY Council approval.

IN WITNESS WHEREOF, this Consent of City of San Diego is executed by CITY, acting by and through its City Manager.

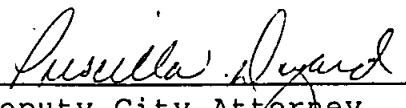
Date: MAR 29 1999, 1999

THE CITY OF SAN DIEGO

By: 
William T. Griffith, Acting
Real Estate Assets Director

APPROVED as to form and legality
this 13th day of April, 1999

CASEY GWINN, City Attorney

By: 
Deputy City Attorney

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made and entered into as of March 1, 1999, by and among the City of San Diego, a municipal corporation (the "City"), Hard Work Too, Inc., a California corporation ("Hard Work"), David Cohn and Lesley Cohn, individually (sometimes collectively the "Cohns"), and the House of Hospitality Association, Inc., a California nonprofit corporation (the "Association"), who/which agree as follows:

1. Recitals.

This Agreement is entered into with reference to the following facts and circumstances:

A. The City previously entered into a lease with Lumen Ventures, Ltd. (the "Lumen Lease") with regard to a portion of the building and grounds known as the House of Hospitality in Balboa Park, located in the City of San Diego, California (the "Premises").

B. The City and the Association have entered into a Master Lease of the Premises.

C. The City has, through legal proceedings, terminated the Lumen Lease; Lumen Ventures, Ltd's appeal of the court's decision is pending.

D. The City, the Association and Hard Work have negotiated a sublease whereby Hard Work will lease the Premises from the Association (the "Cohn Lease").

E. As an inducement for Hard Work and the Association to enter into the Cohn Lease, the City agrees to indemnify Hard Work, the Cohns, and the Association and other parties on the terms and conditions set forth in this Agreement.

2. Indemnification.

The City shall indemnify, defend, protect and hold harmless Hard Work, the Cohns, Cohn Restaurant Group, Inc., the Association, and their respective officers, directors, shareholders, agents, employees, attorneys, affiliates, subsidiaries, successors-in-interest and assigns (sometimes singularly "Indemnified Party" and collectively "Indemnified Parties"), of and from any and all losses, liabilities, expenses, damages, claims, demands, actions, causes of action, suits, costs (including, without limitation, reasonable attorneys' fees) (any one or more, the "Claim") by reason of, arising out of or in connection with the Lumen Lease or the termination thereof, including without limitation any action (i) by Lumen Ventures, Ltd., Lumen Hospitality, LLC or John C. Calabotta (collectively referred to as "Lumen"), including without limitation an action for misappropriating confidential information, interference with contractual relationships, or any other action by Lumen against the Indemnified Parties, or against any one of them, or (ii) by any

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contractors, subcontractors, architects, designers or consultants in connection with the development of the Premises by Lumen, including without limitation, Milford Wayne Donaldson, FAIA, Inc., Dieli Howe Smith; Tsuchiyana, Kaino and Gibson; Travis Verdugo; Curry & Associates; Chandler Art Construction Services; and Gibson & Gibson Antique Lighting. Notwithstanding the foregoing, the City shall have no liability for damages arising from the fraudulent acts or similar intentional acts of bad faith of the Indemnified Parties, or any one of them.

3. Notice of Claim.

Each Indemnified Party will give the City written notice of any Claim, and the City will undertake the defense thereof by counsel reasonably satisfactory to the Indemnified Party, provided, however, that the Indemnified Party shall at all times also have the right to participate fully in the defense at the Indemnified Party's own expense. Failure to give such notice shall not affect the City's duty or obligations under this numbered paragraph. So long as the City is defending any such Claim actively and in good faith, the Indemnified Party shall not settle such Claim.

4. Failure to Defend.

If the City, within a reasonable time after notice of any Claim, fails to defend such Claim actively and in good faith, or if the City is prohibited by its charter or any code or statute to defend such Claim, the Indemnified Party shall have the right, upon notice to the City, to undertake the defense, compromise or settlement of such Claim or consent to the entry of a judgment with respect to such Claim, on behalf of, at the expense of and for the account and risk of the City, and the City shall thereafter have no right to challenge the Indemnified Party's defense, compromise, settlement or consent to judgment.

5. Payment.

The City shall promptly pay the Indemnified Parties any amount due under this Agreement. Upon judgment, determination, settlement or compromise of any Claim, the City shall pay promptly on behalf of the Indemnified Party, and/or to the Indemnified Party in reimbursement of any amount theretofore required to be paid by it, the amount so determined by judgment, determination, settlement or compromise and all other Claims with respect thereto, unless, in the case of a judgment, an appeal is made from the judgment. If the City desires to appeal from an adverse judgment, then the City shall post and pay the cost of the security or bond to stay execution of the judgment pending appeal. Upon the payment in full by the City of such amounts, the City shall succeed to the rights of the Indemnified Party, to the extent not waived in settlement, against the party who made such Claim.

6. Acknowledgment by the City.

The City hereby acknowledges that David Cohn had numerous meetings with John C. Calabotta prior to submitting a bid for the Cohn Lease, including without limitation being provided

with copies of the Lumen Lease and Lumen Venture Ltd.'s financial projections, specifications and plans for its construction of the Premises under the Lumen Lease.

7. Notices.

Any notice or other communication to be given under this Agreement by either party to the other will be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, or delivered by an express overnight delivery service, charges prepaid, or transmitted by facsimile, as follows:

If to Hard Work:

Hard Work Too, Inc.
Attn: President
656 Fifth Avenue, Suite R
San Diego, CA 92101

If to the Cohns:

Mr. David Cohn
Mrs. Lesley Cohn
656 Fifth Avenue, Suite R
San Diego, CA 92101
Fax No. (619) 236-1300

If to the Association:

House of Hospitality Association, Inc.
Attn: Manager
1549 El Prado
San Diego, CA 92101

If to the City:

The City of San Diego
202 C Street, 9th Floor
San Diego, CA 92101
Fax No. (619) 236-7003

Any address or name specified above may be changed by a notice given by the addressee to the other party in accordance with this numbered paragraph. Any notice will be deemed given and effective (i) if given by personal delivery, as of the date of delivery in person; or (ii) if given by mail, upon receipt as set forth on the return receipt; or (iii) if given by overnight courier, one (1) business day after timely deposit with the courier; or (iv) if given by facsimile, upon receipt of the appropriate confirmation of transmission by facsimile. The inability to deliver because of a changed address of which no notice was given or the rejection or other refusal to accept any notice will be deemed to be the receipt of the notice as of the date of such inability to deliver or the rejection or refusal to accept.

8. Miscellaneous.

This Agreement shall be construed in accordance with the laws of the State of California.

Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or any provision hereof.

Except as may otherwise be set forth in this Agreement, this Agreement shall be binding upon and shall inure to the benefit of the parties, their beneficiaries, representatives, assigns and all other successors-in-interest.

This Agreement contains all of the agreements and understandings of the parties with respect to the matters referred to herein, and no prior agreement or understanding pertaining to any such matters shall be effective for any purposes.

The singular number and the masculine and neuter gender as used in this Agreement shall also include the plural number and the feminine gender.

The parties shall sign or cause to be signed all documents and shall perform or cause to be performed all acts necessary to consummate the transactions contemplated hereunder.

Each of the parties has agreed to the use of the particular language of the provisions of this Agreement, and any question of doubtful interpretation shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman.

In any action, arbitration or other proceeding brought for the interpretation or enforcement of any of the terms or provisions of this Agreement, or because of any alleged dispute, breach, default or misrepresentation in connection with the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action, arbitration, or proceeding, in addition to any damages or injunctive or other relief to which said party may be entitled, and whether or not such action, arbitration or other proceeding proceeds to judgment or award. The venue for any such action, arbitration or other proceeding shall be San Diego County, California.

This Agreement may not be superseded, amended or added to except by an agreement in writing, signed by the parties.

Any waiver of any provision of this Agreement shall not be deemed a waiver of such provision as to any prior or subsequent breach of the same provision or any other breach of any other provision of this Agreement.

If any section, paragraph, subparagraph or provision of this Agreement is held by a court of competent jurisdiction to be illegal or invalid, said provision shall be deemed to be severed and deleted; and neither such provision, its severance or deletion shall affect the validity of the remaining provisions of this Agreement.

This Agreement shall survive the execution of the Cohn Lease.

The parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original instrument as against any party who has signed it.

Time is of the essence in the performance of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

HARD WORK:

Hard Work Too, Inc.,
a California corporation

By: Lesley Cohn
Lesley Cohn, ~~President~~ SECRETARY *or*

By: David Cohn
David Cohn, Secretary PRESIDENT *or*

THE COHNS:

David Cohn
David Cohn

Lesley Cohn
Lesley Cohn

THE ASSOCIATION:

House of Hospitality Association, Inc.,
a California nonprofit corporation

By: Martin H. Steinley
Martin H. Steinley, President

CITY OF SAN DIEGO:

The City of San Diego

By: William T. Griffith
William T. Griffith, Acting
Real Estate Assets Director

APPROVED as to form and legality
this 13th day of April, 1999

CASEY GWINN, City Attorney

By: Rescilla Dwyer
Deputy City Attorney

RENTAL AGREEMENT

THIS AGREEMENT, signed this 28th day of March, 1991 is between the HOUSE OF HOSPITALITY ASSOCIATION and the CITY OF SAN DIEGO for the rental of 390 square feet of space known as the DAVIDSON ROOM in the HOUSE OF HOSPITALITY, BALBOA PARK. Rent for this space will be \$292.50 per month due and payable on or before the first day of each month in advance. Rent shall include utilities and cleaning service weekly. Rent shall be paid at the business office of the HOUSE OF HOSPITALITY.

THIS RENTAL space shall be used by the SAN DIEGO POLICE DEPARTMENT as a STOREFRONT operation (restricted to administrative duties and public relations).

ANY AND ALL alterations to this space shall be approved by the HOUSE OF HOSPITALITY ASSOCIATION or their representative.

SPECIAL PERMISSION is granted to POLICE PERSONNEL (as designated by the proper authorities) to enter or leave the building twenty-four (24) hours a day, seven (7) days a week. Permission is granted for POLICE PERSONNEL ONLY and they will be responsible for keeping the outside doors to the building locked after the "HOUSE" staff has closed the building.

THE TERMS of this Agreement shall be month-to-month commencing on April 1, 1991 and terminating March 31, 1992.

THE RENTOR (CITY OF SAN DIEGO) shall be subject to all of the terms and conditions as set forth in the MASTER LEASE between the HOUSE OF HOSPITALITY ASSOCIATION and the CITY OF SAN DIEGO dated July 1, 1990, a copy of which is attached hereto and made a part hereof.

HOUSE OF HOSPITALITY

Date: 3/28/91

By: Ralph E. Johnson

CITY OF SAN DIEGO PROPERTY DEPARTMENT

Date: MARCH 26, 1991

By: James L. Spotts, Property Director

APPROVED AS TO FORM AND LEGALITY this 27 day of March, 1991.

JOHN W. WITT, City Attorney

By: Deputy

JBC:st(1)
3-21-91

Apr-27-1992 RECORDER=rb

* ITEM-122: (R-92-1534) ADOPTED AS RESOLUTION R-279834

Authorizing the execution of a month-to-month rental agreement with the House of Hospitality for the purpose of renting 390 square feet of office space within the House of Hospitality for use by the Police Department Community Relations Office at a monthly rental of \$292.50; authorizing the expenditure of not to exceed \$877.50 from Fund 100, Dept. 110, Org. 485, Account 4682, Job Order 111492, for lease costs from April 1, 1992 to June 30, 1992.

(Balboa Park Community Area. District-3.)

CITY MANAGER SUPPORTING INFORMATION: Since April 1991, the Police Department has maintained office space within the House of Hospitality, Balboa Park for a Community Relations office. The office space was acquired on a month-to-month basis at a rental rate of \$292.50 per month (\$.75 per square foot). The agreement is scheduled to terminate March 31, 1992. It is proposed to renew the month-to-month agreement with the House of Hospitality Association, under the same terms and conditions. The agreement will remain in effect until terminated and may be cancelled with 30 days prior written notice by either party.